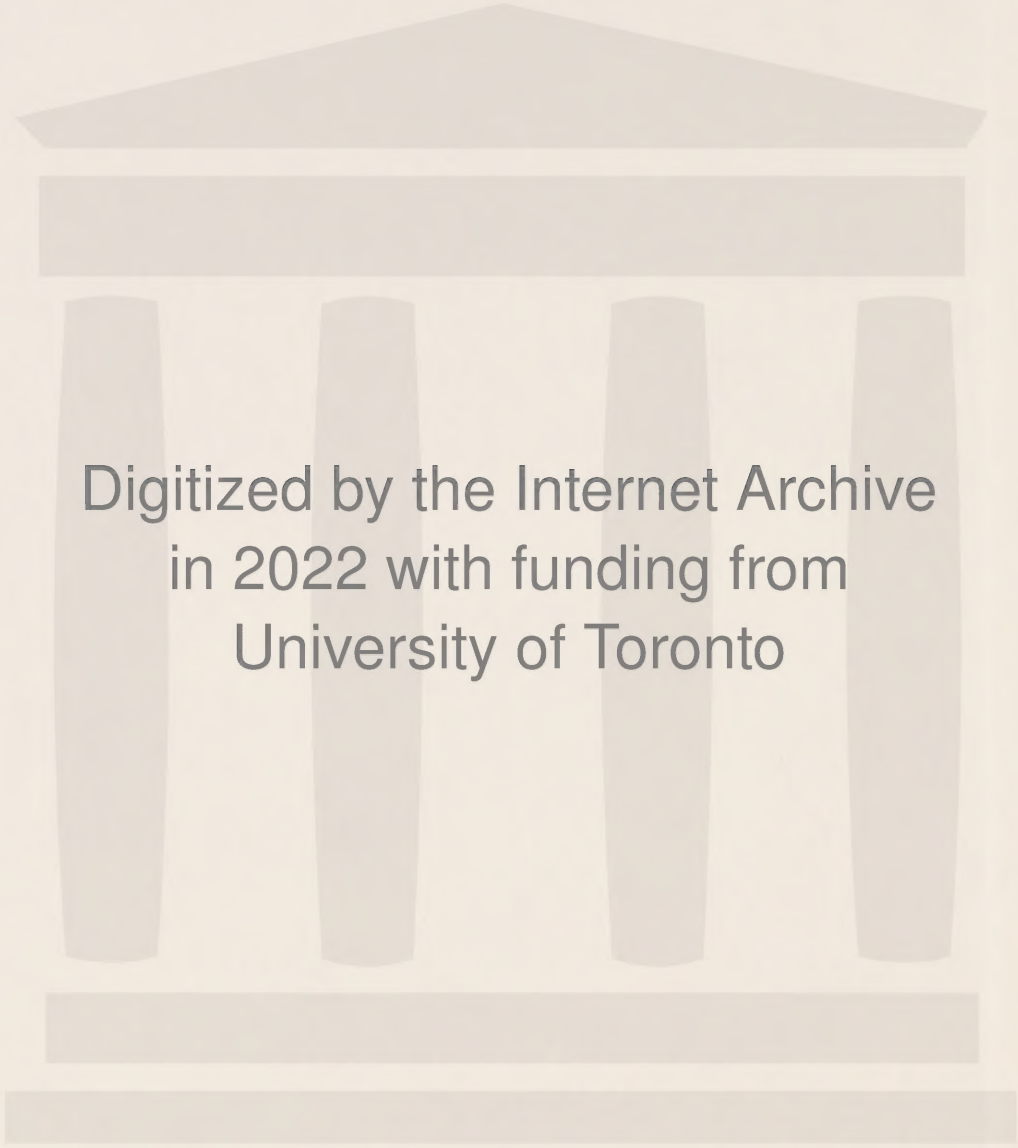

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ISSN 1180-4319

Legislative Assembly of Ontario

Second Session, 40th Parliament

Assemblée législative de l'Ontario

Deuxième session, 40e législature

Official Report of Debates (Hansard)

Wednesday 27 February 2013

Journal des débats (Hansard)

Mercredi 27 février 2013

Standing Committee on Regulations and Private Bills

Organization

Comité permanent des règlements et des projets de loi d'intérêt privé

Organisation

Chair: Peter Tabuns
Clerk: Tamara Pomanski

Président : Peter Tabuns
Greffière : Tamara Pomanski

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Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 27 February 2013

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Mercredi 27 février 2013

The committee met at 0902 in room 151.

ELECTION OF CHAIR

The Clerk of the Committee (Ms. Tamara Pomanski): Good morning, honourable members. How are you? Nice to see you.

We're here to elect a Chair, and it is my duty to call upon you to elect a Chair. Pursuant to standing order 117(c) and the sessional paper that was tabled on November 24, 2011, the Chair of the Standing Committee on Regulations and Private Bills must be a member of the third party.

Are there any nominations?

Mr. John Vanthof: I would like to nominate Peter Tabuns.

The Clerk of the Committee (Ms. Tamara Pomanski): Mr. Tabuns, do you accept the nomination?

Mr. Peter Tabuns: Absolutely.

The Clerk of the Committee (Ms. Tamara Pomanski): Are there any further nominations? Seeing none, I declare the nominations closed and Mr. Tabuns elected Chair of the committee.

The Chair (Mr. Peter Tabuns): Thank you, members of the committee.

ELECTION OF VICE-CHAIR

The Chair (Mr. Peter Tabuns): Our next item of business is the election of a Vice-Chair. I'll read the script: It's my duty to entertain a motion for Vice-Chair. Are there any motions?

Mr. Bill Walker: I'll nominate John Vanthof.

The Chair (Mr. Peter Tabuns): Any other nominations? Mr. Vanthof, you are Vice-Chair.

APPOINTMENT OF SUBCOMMITTEE

The Chair (Mr. Peter Tabuns): I understand that the Clerk has a motion there. This is for appointment of the subcommittee. Mr. Walker, are you prepared to move?

Mr. Bill Walker: I am, other than the name at the top is—

The Clerk of the Committee (Ms. Tamara Pomanski): Sorry. Wrong—just say, "I move."

Mr. Bill Walker: I move that a subcommittee on committee business be appointed to meet from time to time at the call of the Chair, or at the request of any member thereof, to consider and report to the committee on the business of the committee;

That the presence of all members of the subcommittee is necessary to constitute a meeting;

That the subcommittee be composed of the following members: the Chair as Mr. Tabuns, the Vice-Chair as Mr. Vanthof and, I believe, Mr. Hillier;

That substitution be permitted on the subcommittee.

Interjection.

Mr. Rick Bartolucci: Bill, I think there should be another name.

The Clerk of the Committee (Ms. Tamara Pomanski): Mr. Dhillon.

Mr. Bill Walker: Oh, sorry. Mr. Dhillon, Mr. Hillier and Mr. Vanthof. My apologies.

The Chair (Mr. Peter Tabuns): Mr. Walker has moved a subcommittee motion. Any discussion or comments? If none, I shall now put the question: Shall the motion carry? Carried.

Is there any other business, Clerk?

The Clerk of the Committee (Ms. Tamara Pomanski): I'll just talk for a few minutes.

We have a lot of the same faces this year. That's good to see. I'm assuming, in terms of the committee itself, we're familiar with how the committee works. There are resource binders underneath your packages. Again, we received those last year. It was on the mandate of the committee, and it introduces you to the goings-on of the committee.

There are also documents from ministries. We did review a regs report last year and, if you recall, we had made recommendations to ministries in accordance with our standing orders and they had responded back. So these are some of the documents we had received to date between the prorogation and from the last time that the committee met. This is just more a follow-up from what the committee had received within the last time we had met.

If you have any further questions, let me know. I'm here to answer anything, and my assistant, Kate, as well.

We're here at any time for anything you need. I'm looking forward to working with you all.

The Chair (Mr. Peter Tabuns): Thank you, Tamara.

Seeing no further business, I declare this meeting adjourned.

The committee adjourned at 0906.

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Clerk / Greffière
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Staff / Personnel
Ms. Karen Hindle, research officer,
Legislative Research Service

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ISSN 1180-4319

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Deuxième session, 40e législature

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Journal des débats (Hansard)

Mercredi 20 mars 2013

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STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 20 March 2013

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Mercredi 20 mars 2013

The committee met at 0900 in committee room 1.

The Chair (Mr. Peter Tabuns): Good morning. Will the Standing Committee on Regulations and Private Bills come to order?

The items on the agenda are as follows: Bill Pr5, An Act to revive Terra Paving Inc.; Bill Pr11, An Act respecting The Royal Conservatory of Music; Bill Pr12, An Act to revive Universal Health Consulting Inc.; and Bill Pr14, An Act to revive Aspen Drywall Inc. Then we'll have a briefing by Mark Spakowski, chief legislative counsel.

TERRA PAVING INC. ACT, 2013

Consideration of the following bill:

Bill Pr5, An Act to revive Terra Paving Inc.

The Chair (Mr. Peter Tabuns): We'll now proceed with the first item on the agenda, Bill Pr5, An Act to revive Terra Paving Inc. Mr. Shurman will be sponsoring this bill. Mr. Shurman, you're here and the applicant is here. I would ask the applicant to introduce himself for the purposes of Hansard.

Mr. Vito Petrozza: My name is Vito Petrozza. I used to be the owner of this company.

The Chair (Mr. Peter Tabuns): Thank you, sir. Does the sponsor, Mr. Shurman, have any comments?

Mr. Peter Shurman: No. Mr. Petrozza is a constituent in Thornhill. The company, for administrative reasons, wound up, being dormant, and he wants to reactivate it. It's as simple as that.

The Chair (Mr. Peter Tabuns): Okay. Sir, do you have any comments you'd like to make?

Mr. Vito Petrozza: My accountant made a mistake. He closed the company—I don't know for what reason; for no reason.

The Chair (Mr. Peter Tabuns): Fair enough. Are there any other interested parties in the room who want to speak to this?

Are there any comments from the government?

Are there any questions from any committee members?

Are you ready to vote, members of the committee? Okay, we'll start.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

Done. Thank you.

Mr. Peter Shurman: Thank you, Chair.

ROYAL CONSERVATORY OF MUSIC ACT, 2013

Consideration of the following bill:

Bill Pr11, An Act respecting The Royal Conservatory of Music.

The Chair (Mr. Peter Tabuns): The second item is Bill Pr11, An Act respecting The Royal Conservatory of Music. Mrs. Cansfield will be sponsoring this bill. Would the applicants please come forward? Mrs. Cansfield, you can speak from there. I would ask the applicants to introduce themselves for the purposes of Hansard.

Mr. Tony Flynn: Good morning. My name is Tony Flynn. I'm the chief administrative officer of the Royal Conservatory of Music.

Mr. Frank Palmay: Good morning. I'm Frank Palmay, partner with McMillan and general counsel to the conservatory.

The Chair (Mr. Peter Tabuns): Okay. Mrs. Cansfield, do you have any comments?

Mrs. Donna H. Cansfield: Just to say that the Royal Conservatory was established by legislation and this is coming forward in order to comply with new legislation in the not-for-profit sector. The government has no concerns at all.

The Chair (Mr. Peter Tabuns): Do you as applicants have any comments?

Mr. Frank Palmay: No, but we'd be pleased to answer any questions you might have.

The Chair (Mr. Peter Tabuns): Fair enough. Are there any other interested parties in the room who want to speak to this?

Any further comments from the government? Good.

Any questions from committee members?

Are members ready to vote? Excellent.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall section 4 carry? Carried.

Shall section 5 carry? Carried.
Shall section 6 carry? Carried.
Shall the preamble carry? Carried.
Shall the title carry? Carried.
Shall the bill carry? Carried.
Shall I report the bill to the House? Carried.
Done. Thank you.

UNIVERSAL HEALTH CONSULTING INC. ACT, 2013

Consideration of the following bill:

Bill Pr12, An Act to revive Universal Health Consulting Inc.

The Chair (Mr. Peter Tabuns): The next item is Bill Pr12, An Act to revive Universal Health Consulting Inc. Mr. O'Toole, you're sponsoring this bill. Would you come forward, and the applicant as well? I'd ask the applicant to introduce himself for the purposes of Hansard.

Mr. Kip Daechsel: Yes, Mr. Chair. My name is Kip Daechsel. I'm counsel to the applicant. I'm also the applicant's son.

The Chair (Mr. Peter Tabuns): Thank you. Mr. O'Toole, do you have any comments as sponsor?

Mr. John O'Toole: Yes. It's my distinct pleasure to introduce this bill for the second time. The first time, with all the work that had been done and the legal side, it was dismissed because the House was prorogued. So Kip is going to explain the reason for reviving this corporation.

Mr. Kip Daechsel: Mr. Chair, I actually provided the Clerk with a summary of the chronology and the events relating to this corporation.

It was set up by my father in 1981. My father was with Health and Welfare Canada, as it was then known. He left and retired, and he set up this company to provide consulting services. He also used the company to purchase property in the Ottawa Valley; my father, who is 85, has resided for some time in Ottawa.

Unbeknownst to him, the company dissolved—we actually found out several years ago—and it was too late to revive by the traditional methods, so we had to use this method.

The Chair (Mr. Peter Tabuns): Fair enough. Are there any interested parties in the room who want to speak to this matter?

Any comments from the government on this? None.
Any questions from committee members?
Are members ready to vote? Excellent.
Shall section 1 carry? Carried.
Shall section 2 carry? Carried.
Shall section 3 carry? Carried.
Shall the preamble carry? Carried.
Shall the title carry? Carried.
Shall the bill carry? Carried.
Shall I report the bill to the House? Carried.
Done. Thank you.

ASPEN DRYWALL INC. ACT, 2013

Consideration of the following bill:

Bill Pr14, An Act to revive Aspen Drywall Inc.

The Chair (Mr. Peter Tabuns): The next item is Bill Pr14, An Act to revive Aspen Drywall Inc.

Mr. O'Toole is sponsoring this bill. The applicant has come forward. I would ask the applicant to introduce himself for the purposes of Hansard.

Mr. Adam Worboy: Good morning. My name is Adam Worboy. I am a representative of Aspen Drywall Inc.

The Chair (Mr. Peter Tabuns): Thank you. Mr. O'Toole, any comments?

Mr. John O'Toole: Yes, on behalf of my constituent, they are resurrecting this company, and I'm here to support him. Adam will explain the details.

Mr. Adam Worboy: We wish to revive the corporation to deal with real property that is in the company's name, and to look after its affairs.

The Chair (Mr. Peter Tabuns): Fair enough. Are there any interested parties in the room who want to speak to this matter?

Any comments from the government?
Any questions from committee members?
Are members ready to vote? Excellent.
Shall section 1 carry? Carried.
Shall section 2 carry? Carried.
Shall section 3 carry? Carried.
Shall the preamble carry? Carried.
Shall the title carry? Carried.
Shall the bill carry? Carried.
Shall I report the bill to the House? Carried.
Done. Thank you.

That is the private bills section of the agenda.

BRIEFING

The Chair (Mr. Peter Tabuns): We have Mr. Spakowski, chief legislative counsel, here to brief us on regulations.

Mr. Mark Spakowski: Thank you very much. I'm going to give you an overview of regulations. I'm going to follow, generally, the handout that was prepared by our office and has been distributed to you.

Regulations are laws, but they are made by someone other than the Legislature. Under the Constitution, the Legislature has the authority to pass legislation, statutes or acts. The authority to make regulations is set out in such an act. So the Legislature passes the act but gives the authority to someone else to make regulations. So this is really a delegation from the Legislature, and that's why regulations are sometimes called delegated legislation.

The act that provides the authority to make regulations will specify who can make those regulations. In most cases, that will be the Lieutenant Governor in Council or the minister, but there are other possibilities that sometimes arise in legislation. The act that provides for the authority to make regulations also sets out the scope

in which regulations can be made. So it will enumerate what those regulations could be about.

0910

The common law also provides some limitations on what can be done by regulations. Essentially, the common law has a number of presumptions that they operate by, presuming that a power to make regulations doesn't cover something unless the statute is particularly clear on that. So the limitations on regulations are both in the statute but also, to some extent, in common law.

I want to explain a bit about the difference between making regulations and filing them. Regulations are made when they're signed by whoever has the authority to make them or when the final approval is given by whoever has the authority to approve them. But a regulation has no legal effect unless it's filed with the registrar of regulations. This legal requirement, and the others that I'm going to speak about in the next little while, are all under the Legislation Act.

Regulations have to be filed with the registrar of regulations in order to be effective. The registrar of regulations is a lawyer in our office who's appointed as the registrar by the Lieutenant Governor in Council. The registrar oversees the filing of regulations and also has general duties within our office with respect to the making of regulations.

Regulations come into force generally when the regulation is filed, unless the regulation itself provides otherwise. So the regulation could say within it that it comes into force on a different day. There is a provision in the Legislation Act that provides that a regulation is not effective against someone who does not have actual notice of it until it's published. Once it's published, it binds everyone. Before it's published, it only affects those who have actual notice of it.

Regulations that are filed—there is a requirement under the Legislation Act to publish them. They must be published in two places: on the e-Laws website, which is an electronic publication, and in the Ontario Gazette, which is a weekly hard-copy publication, although it's also available on the Internet. The publication on the e-Laws website generally takes place very quickly—often the same day or the next day. Our service standard is within two business days, but it's usually considerably quicker than that. Publication in the gazette is usually a little over two weeks after it's filed. All of the regulations filed in a certain week are published in the gazette that's dated the third Saturday after that week—at least, that's usually the case.

Statutes sometimes clarify that something is not a regulation for the purpose of the Legislation Act. Sometimes this is just to clarify doubtful cases; sometimes it's to provide that something should not be treated as a regulation. If that's the case, then it's taken out of the regulation scheme; it doesn't have to go through filing etc.

Mr. John O'Toole: Is there any provision for retroactivity?

Mr. Mark Spakowski: I indicated that the common law has certain presumptions. One of the presumptions is that there is no authority to make retroactive regulations unless the statute clarifies that, and many statutes do clarify it. There's no general authority to make retroactive regulations, but many statutes do provide for that specifically.

Regulations are drafted by lawyers within our office, legislative counsel within our office, on the instruction of ministry lawyers. So we're the ones who draft it, but the ministries are responsible for its content—what it does.

The handout describes a few different kinds of regulations: parent regulations, amending regulations and revoking regulations. Whatever the sort is, when regulations are made, their effect is incorporated in the consolidated regulations, which is on the e-Laws website, and that's usually done quite quickly—within usually a couple of days.

Ontario currently has a little over 1,700 consolidated parent regulations; that number goes up and down as new ones are made or old ones are revoked.

The total number of regulations that are filed each year varies, but the average over the past 10 years is a little over 500 a year. Last year there were 448, and this year there are 106 so far, as of yesterday.

A little less than half of Ontario's regulations are bilingual. Where regulations are bilingual, the French version is also prepared in our office. So we prepare both the English and French versions of bilingual regulations.

That's the end of the remarks I was going to make. I'm happy to answer any questions if there are any.

The Chair (Mr. Peter Tabuns): Any questions from the committee?

There being none, I declare this committee adjourned.

The committee adjourned at 0916.

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Mercredi 1er mai 2013

The committee met at 0900 in committee room 1.

The Chair (Mr. Peter Tabuns): For those who are not paying attention, good morning. Will the Standing Committee on Regulations and Private Bills come to order?

The items on the agenda are as follows: Bill Pr8, An Act respecting The Beechwood Cemetery Company; Bill Pr13, An Act to amalgamate The Sisters of St. Joseph of Hamilton, The Sisters of St. Joseph of the Diocese of London, in Ontario, The Sisters of St. Joseph of the Diocese of Peterborough in Ontario and Sisters of St. Joseph for the Diocese of Pembroke in Canada; and consideration of the draft report on regulations, 2011.

BEECHWOOD CEMETERY COMPANY ACT, 2013

Consideration of the following bill:

Bill Pr8, An Act respecting The Beechwood Cemetery Company.

The Chair (Mr. Peter Tabuns): We'll now proceed to the first item on the agenda. The first item is Bill Pr8. Mr. McNeely will be sponsoring the bill.

Would the applicant please come forward? I would ask the applicant to introduce himself for the purposes of Hansard.

Mr. Richard Wagner: Good morning, Mr. Chairman. My name is Richard Wagner, and I am the agent for the Beechwood Cemetery Company.

The Chair (Mr. Peter Tabuns): Does the sponsor, Mr. McNeely, have any comments?

Mr. Phil McNeely: Yes. The board of directors of Beechwood Cemetery Company—"the company"—has applied for special legislation to amend An Act to incorporate the Beechwood Cemetery Company of the City of Ottawa. It's a very important cemetery.

The applicant represents the company that owns and operates Beechwood Cemetery in Ottawa which, in addition to serving Ottawa and the surrounding area, is the National Military Cemetery of Canada, the RCMP National Memorial Cemetery, a national historic site and the National Cemetery of Canada.

The applicant would like to amend the act to take into account changes to the law governing cemeteries, to modernize some of the provisions relating to the governance of the board of directors and to remove limitations on the borrowing powers of the company.

The Chair (Mr. Peter Tabuns): Does the applicant have any comments?

Mr. Richard Wagner: No, Mr. Chairman, except to invite all members at some point to come and visit the Beechwood Cemetery, because it is really a gem that we're building, not only for Ontario and Canada but for the community of Ottawa–Carleton.

As Mr. McNeely said, the object of this amendment—because the Beechwood Cemetery was incorporated by an act of the Legislature way back in the 19th century, we're now asking that parts of it be amended to update it to allow us to increase the board from five to 15 members, to allow more stakeholders on to the board and also to modernize a few provisions that have, over the years, become a bit stale-dated.

The Chair (Mr. Peter Tabuns): Okay. Are there any comments from the government? None. Any questions from other committee members?

Are members ready to vote? Okay.

Shall section 1, as amended, carry?

Interjection.

The Chair (Mr. Peter Tabuns): Sorry, my apologies. It's always good to have a capable Clerk steering the hand of the Chair.

Shall section 1 carry? Carried.
Shall section 2 carry? Carried.
Shall section 3 carry? Carried.
Shall section 4 carry? Carried.
Shall section 5 carry? Carried.
Shall section 6 carry? Carried.
Shall section 7 carry? Carried.
Shall section 8 carry? Carried.
Shall the preamble carry? Carried.
Shall the title carry? Carried.
Shall the bill carry? Carried.
Shall I report the bill to the House? Agreed.
Done. Thank you very much.

CONGREGATION OF THE SISTERS OF ST. JOSEPH IN CANADA ACT, 2013

Consideration of the following bill:

Bill Pr13, An Act to amalgamate The Sisters of St. Joseph of Hamilton, The Sisters of St. Joseph of the Diocese of London, in Ontario, The Sisters of St. Joseph

of the Diocese of Peterborough in Ontario and Sisters of St. Joseph for the Diocese of Pembroke in Canada.

The Chair (Mr. Peter Tabuns): We will now proceed to the second item of business on the agenda, Bill Pr13. Mr. Crack will be sponsoring this bill.

I see the applicants have come forward. I would like the applicant to introduce himself or herself for the purposes of Hansard.

Mr. Terrance Carter: Good morning, Mr. Chair, members of committee. My name is Terrance Carter. I'm legal counsel for the four congregations. It's a pleasure to be with you today. Our purpose is to seek passage of Bill PR13 be it an act to amalgamate four congregations into one congregation, to combine with the canonical unity which has taken place back in November 2012.

What I would like to do is ask Sister Veronica, who is the congregational leader for the congregation of Peterborough, to provide a bit of background.

Before I do, I'd just like to introduce the other members of the congregations who are here with us today. We have Sister Anne Karges, who is the congregational leader for the Sisters of St. Joseph of Hamilton; as well, we have Sister Loretta, who is representing the Sisters of St. Joseph of the Diocese of London, in Ontario; then we have Sister Veronica O'Reilly beside me, to my right, who is the congregational leader of the Sisters of St. Joseph of the Diocese of Peterborough; and also Sister Mary McGuire, who is the congregational leader of the Sisters of St. Joseph for the Diocese of Pembroke in Canada.

So with your permission, Mr. Chair, I'd like to have Sister Veronica provide just a bit of background concerning the reason for the request for the legislation. Sister Veronica?

Sister Veronica O'Reilly: Thank you and thanks for the opportunity to speak here.

The Sisters of St. Joseph began their ministry here in Ontario in 1851, not far from here, down on Power Street around Queen and Parliament. There were four of them and they were very poor but they brought with them from France a 200-year-old tradition of serving the disadvantaged. Their immediate concerns here were those immigrants who faced starvation in Ireland. The orphans in particular, as well as the frail elderly, the physically and emotionally disadvantaged, were in need of shelter, health care and, in the case of the children, education.

So in Hamilton, London and Peterborough, and up at the head of the lakes and centres throughout southern Ontario, the basic social work that the Sisters began evolved into orphanages, schools, homes for the aged and hospitals. The congregation grew greatly in numbers, and in the latter half of the 19th century, foundations at Hamilton, London and Peterborough became independent congregations separated from Toronto at the instigation of diocesan bishops. In the early 20th century, the Pembroke congregation was similarly separated from the Peterborough group, which was operating schools in Pembroke diocese. The individual congregations continued in the 20th century making foundations across Canada, and moving into the Southern Cone, Africa and China.

In the last half-century, as governments and educated laypersons assumed more and more responsibility for education, health care and social work, the Sisters moved on to other needs: refugees, chaplaincy, retreat and spiritual direction centres, environmental concerns, the homeless, the addicted, and advocacy for many justice issues.

Membership decreased as their institutional presence lessened, and our St. Joseph congregations began contemplating ways to best manage this fact so that we could continue to serve as well as possible, as long as possible. We met together over a period of three or four years to discuss the question of uniting, and the groups Hamilton, London, Pembroke and Peterborough came to the conclusion that an amalgamation of our congregations, our corporations, was a good thing. It could deepen our basic spirit of unity and help us strengthen the now smaller groups by sharing resources, community life and leadership personnel.

Besides this process of civil amalgamation, we sought canonical, or church, approval to proceed. We exist not only as civil corporations, but as approved juridical entities in communion with the Holy See. As such, we needed Rome's permission to change our juridical status. Two things were necessary for this: one was proof of approval from at least two-thirds of our membership; and the second was the same due diligence necessary for application to the provincial government.

In the spring of 2012 we applied to Rome and received canonical approval and a few months later it became operative. In November 2012, we held leadership elections and a general chapter for the combined congregations.

It's our hope that the combined approval of the church and our provincial government will enable our larger congregation to strengthen certain ministry initiatives, realize some efficiencies, and provide a stronger platform to engage the challenges that lie before us.

0910

Mr. Terrance Carter: Mr. Chair, just a couple of comments about the legislation, if I could.

The structure of the legislation has been worked on carefully in conjunction with Bonni Harden of the Ministry of Government Services. As well, we want to thank Susan Klein of legislative counsel for her assistance concerning it. We have needed to proceed by amalgamation by special legislation because of the complexities involved with the history of the four corporations, and that's set out in the preamble. It was determined to be the best course of action to have the amalgamation occur by special legislation because there were certain provisions in previous legislation that would need to be repealed. As a result, the amalgamation that is being requested by this piece of legislation will bring the four corporations together into one and then will continue the corporation as one corporation under the name of the Congregation of the Sisters of St. Joseph in Canada, and

it will be a general act corporation. It will not be a special act corporation any further; instead, it will be an amalgamated corporation under the Corporations Act. That will provide flexibility for the corporation to make other changes and to be like every other general act corporation in Canada.

The second thing we're doing by the legislation is to clarify the charitable objects, and the objects are set out in section 2 of the legislation. That better defines what the four congregations have done in the past and what they're going to do together as a single corporation. We have worked with the Public Guardian and Trustee of Ontario. We've also communicated with the Canada Revenue Agency to obtain their pre-approval concerning the objects, because the congregation will continue as a registered charity.

The last part of the proposed legislation deals with the continuation of the tax-exempt status that is currently under two pieces of private legislation, one dealing with the congregation in London, the other one dealing with the congregation in Peterborough. We have communicated with city solicitors in both cities and there has been no objection to the continuation of those pieces of legislation.

Finally, in section 7 there are repeals of certain sections and certain acts of previous legislation that are required to ensure that there is clarity in the new legislation so that it does not create any confusion in the minds of the public concerning the predecessor legislation.

Mr. Chair, that's the outline for the legislation that we're seeking today under Bill Pr13. Thank you.

The Chair (Mr. Peter Tabuns): Thank you. Mr. Crack, as sponsor, do you have any comments?

Mr. Grant Crack: Yes, thank you very much, Mr. Chair. I'd just like to welcome the four sisters and solicitor Mr. Carter to Queen's Park. As Sister Veronica had indicated, if I could quote her, this is a good thing, amalgamating into one. I think it's going to set them up well for the future. Our government will be supporting this legislation.

The Chair (Mr. Peter Tabuns): Are there any interested parties in the room who want to speak to this matter? Mr. Crack, I'll take your comments as the government comments.

Mr. Grant Crack: Thank you.

The Chair (Mr. Peter Tabuns): Are there any questions from any other committee members? Are members ready to vote? Great.

Bill Pr13: Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall section 4 carry? Carried.

Shall section 5 carry? Carried.

Shall section 6 carry? Carried.

Shall section 7 carry? Carried.

Shall section 8 carry? Carried.

Shall section 9 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Passed. Thank you very much.

Sister Veronica O'Reilly: Thank you.

Mr. Terrance S. Carter: Thank you.

Mr. Joe Dickson: Mr. Chair?

The Chair (Mr. Peter Tabuns): Mr. Dickson.

Mr. Joe Dickson: May I say one thing? First of all, my relatives originally came from Tipperary in 1846—

Mr. Grant Crack: That's a long way.

Mr. Joe Dickson: It's a long way. The families are the McGriskins, the Kennedys, the Teefys. This young gentleman beside me, Monte Kwinter, has seen and visited with more popes than I could in my entire life, but I always say to the clergy, regardless of denomination, faith or place of worship, please always keep me in your prayers. I thank you for being here. Thank you, Mr. Speaker, for the latitude.

The Chair (Mr. Peter Tabuns): You're welcome. Thank you very much.

Sister Veronica O'Reilly: Thank you.

DRAFT REPORT ON REGULATIONS

The Chair (Mr. Peter Tabuns): Members of the committee, the next item is consideration of the draft report on regulations, 2011. Research officer Karen Hindle will introduce the report. Karen?

Ms. Karen Hindle: Good morning, members. Before I get into the report, I thought I would give you a brief overview as to the role of the committee and specifically its counsel dealing with the regulations review.

The regulations committee gets its authority from the Legislation Act as well as the standing orders. You can see on pages 23 and 24 those sources of authority. First, there's section 33 of the Legislation Act, which requires that every regulation be permanently referred to this committee and that the committee has the ability to review all of these regulations and ultimately to report to the House.

On page 24, it outlines standing order 108(i), which outlines the specific grounds upon which the committee is required to review the regulations that are made each year. I would like to note in particular that the committee is unable to review regulations based on policy grounds. Rather, the focus is on whether the government or the cabinet, depending on who was responsible for making the regulation, had the requisite authority, whether it, for instance, violates the charter, whether the regulation attempts to exclude the jurisdiction of the courts or impose a tax. There's a list of different grounds provided in the standing orders. Those factors are those which counsel, through the legislative research service, undergoes its review of the regulations each year.

So this report addresses the regulations that were made by the government during the year of 2011. In 2011, there were 468 regs that were made. This number, as you can see in the statistics from page 1 to page 3, is typical of previous years. In most cases, the government will

make approximately between 400 and 500 regulations a year. Like in previous years, the vast majority of the regulations, 345, are amending regulations. In comparison, there are much fewer new regulations and regulations that revoke previous regulations.

Page 3 outlines the totals of each of the different types of regulations. You will note, however, that there are regulations—this in 2011—that are both new and revoking. That was a designation that was put on by legislative counsel and as such we have, in compiling these statistics, adhered to the characterization made by legislative counsel.

Starting on page 4, the report outlines those regulations that were made in 2011 for statutes that had no prior regulations.

As you can see, starting on page 5, the bulk—there are 17 new regulations under the Ontario Infrastructure and Lands Corporation Act. These are interesting regulations in that while they fall under the Ontario Infrastructure and Lands Corporation Act, they actually amend regulations under other legislation. For example, O. Reg 202/11 amends a regulation made under the Education Act.

0920

Mr. Randy Hillier: Chair, just before we get on to that section—

Ms. Karen Hindle: Of course.

Mr. Randy Hillier: I just want to bring to the attention of the committee, and get your response—as we see in this report, there were 464—

Ms. Karen Hindle: Yes, 468.

Mr. Randy Hillier: —468 parent regulations that were new regulations.

Ms. Karen Hindle: Regulations, yes.

Mr. Randy Hillier: I just want to put this on the table for discussion sometime in this discussion. There's no consistency, in my view, on what regulations are and how we measure and quantify them.

If you might recall, last year, as Minister Duguid at the time mentioned, we had 484,000 regulations. Later on, that was qualified into 484,000 regulatory steps. We also heard that there were 80,000 regulatory steps removed, even though we've had some difficulty finding out what those particular regulatory steps were.

I think it would be wise for this committee to maybe look at how we measure and quantify regulations so that we have some consistency in what a regulation is, and an easy manner and mechanism on how to measure them that gives us a clear view of what is happening with the Legislative Assembly and our laws. Clearly, when we state something like there were 468 regulations created but we had 84,000 regulatory steps removed—we can see what these parent regulations are, but it's difficult to see what these regulatory steps are.

I think it would be good for the public at large, for their knowledge and their awareness, but I think it also would be great for all members of the assembly that we have a consistent fashion on what a regulation is and how it's measured.

Comments?

The Chair (Mr. Peter Tabuns): Well, Mr. Hillier, today what we're doing is just going through this. If you want to bring forward, at our next meeting, a proposal for research, for reporting by legislative counsel, I would be happy to have that, as—

Mr. Randy Hillier: Sure. Yes, I just wanted to put that on the table while this report was going on.

The Chair (Mr. Peter Tabuns): Sure.

Mr. Randy Hillier: Maybe I'd ask right now if we could have the Clerk do some research for our next meeting on how different jurisdictions measure and quantify regulations, and if there is any consistent yardstick that is used.

The Clerk of the Committee (Ms. Tamara Pomanski): That would be a research request.

The Chair (Mr. Peter Tabuns): Yes. And I gather from the committee there's no objection to having that sort of research done. Is that correct? Fair enough. Research to be done.

Ms. Karen Hindle: Thank you, Mr. Hillier.

Starting on page 6, the report outlines those regulations that, in the estimation of counsel, should be considered by the committee for reporting.

Counsel, on behalf of the committee, wrote to 10 ministries about the 2011 regulations and, in particular, about 15 regulations. We received responses to all of our letters, but there remain four regulations that we continue to have concerns about and that we would propose that the committee consider reporting.

The first of these regulations is Ontario regulation 30/11 under the Funeral, Burial and Cremation Services Act, 2002. This falls under the Ministry of Consumer Services. In this case, there is a provision in the regulation which is virtually identical to a provision in the parent legislation. We contacted the ministry and informed them of this duplication. They acknowledged that this was an error and that they would address the duplication. However, as of early April, this has not occurred.

As a possible recommendation, we suggested that the committee recommend that the Ministry of Consumer Services address the nearly identical provisions in section 171 of O. Reg 30/11 and section 101.1(1) of the Funeral, Burial and Cremation Services Act, 2002.

On page 8, we raise concerns about O. Reg 137/11—

The Chair (Mr. Peter Tabuns): Excuse me, Ms. Hindle. What we're going to do is consider recommendations one by one. We appreciate that.

Do members have any comments on this report or questions for legislative research regarding this recommendation?

Mr. Bill Walker: Mine would just be a friendly amendment to the recommendation that we put some date stamp on there, because my fear is this again could be another two or three or 25 years before we ever get it done. I don't know what a fair time frame is, but the very minimum, I think by December 21, 2013, would be a date that we should strive for.

The Chair (Mr. Peter Tabuns): You've moved that amendment.

Are there any other comments or questions?

Mr. Joe Dickson: The focus was on the words "strive for."

Mr. Bill Walker: "Shall."

The Chair (Mr. Peter Tabuns): Shall.

Mr. Joe Dickson: "Shall" makes it—

Mr. Bill Walker: Well, at some point we've got to get it done—

The Clerk of the Committee (Ms. Tamara Pomanski): Sorry, Mr. Walker. There is an option, after we get through the whole report, that when you agree to the report and the Chair presents it to the House, we can recommend to the House we want a response back within 120 days. That means that then a letter would be sent on behalf of the Chair, so each recommendation, moving forward—that could be an avenue of getting a response back from the ministry. And we did that in the past, last year, as well.

Mr. Bill Walker: I'm acceptable of the 120 days. Thank you.

The Chair (Mr. Peter Tabuns): The mechanism works? Okay. So we'll go back to this. Are there any other questions for Ms. Hindle on this item? Any further debate regarding the recommendation?

All those in favour? All those opposed? Being none, carried.

On to the next recommendation.

Ms. Karen Hindle: The second regulation that counsel had concerns about was Ontario regulation 137/11, registration under the Chiropractic Act, 1991, which falls under the jurisdiction of the Ministry of Health and Long-Term Care. In this particular case, there are two provisions which we identified as potentially problematic, so perhaps, Mr. Chair, I will address section 18(2) and then go on to section 18(3). Is that all right?

The Chair (Mr. Peter Tabuns): Fine by me.

Ms. Karen Hindle: Now, O. Reg 137/11 is a new regulation made by the council of the College of Chiropractors of Ontario under the Chiropractic Act. This regulation deals with the registration of members of this particular college. So section 18(2) addresses the automatic revocation of members who have failed to pay their annual fees. Section 18(2) provides that the college will revoke a suspended member's certificate of registration if it has been "more than two years from the date of the suspension."

Counsel, in its letter to the ministry, expressed concern that the phrase "more than two years" was unclear, in that it suggests that at any time beyond the two years, a member's certificate could be revoked. By way of an example, we provided the language which is enunciated in the Midwifery Act, which provides that a certification of registration will be revoked "one year after the day of suspension." So what counsel had suggested to the ministry was that in comparison to this specific language, which provides a date upon which it will automatically be revoked, that the council of chiropractors instead chose much more general language.

According to the ministry, it is the intention of the college to automatically revoke a suspended member's certificate of registration two years to the date of their suspension, but it remains our concern that this isn't entirely clear upon reading through section 18(2). The ministry suggested that there hadn't been any complaints about the language of section 18(2), but despite that, counsel felt that the language could be revised or tightened in order to make it clear to members of the college, as well as members of the public, the circumstances under which a chiropractor's certificate of registration would be revoked.

0930

The Chair (Mr. Peter Tabuns): Are there any questions or comments on this draft report? Ms. Wong.

Ms. Soo Wong: Thank you, Mr. Chair. I just want to get some clarification. Are other colleges having a specific date or—because I'm hearing from the report that the Midwifery Act is more specific, whereas the College of Chiropractors is not. How about the other colleges?

Ms. Karen Hindle: It was our sense that most of the other colleges were providing more specificity. But if you would like, we can go back and take a look, for example, at the doctors, the dentists, other health professionals to be able to identify the specific language they use in order to determine whether this is sufficient.

Ms. Soo Wong: The other thing I would be very—I'm not sure of other members; I'm just going to speak for myself. What was the rationale for the College of Chiropractors—it's their college that is responsible for this kind of determination because they're self-regulated. How did it come about, when they proposed the automatic revocation of the members, that it came to be for more than two years' suspension compared to other self-regulated disciplines?

That's really important because this is a self-regulated body. I would not want any government, whether it's ours or anybody, telling them what to do. Second of all, it would be important for us to look across the board, because why has one discipline decided two years, another discipline one year, another discipline—like, do we have uniformity? Why has one particular college that is self-regulatory decided to go this very relaxed way to deal with their members?

Ms. Karen Hindle: The committee can't specifically address the amount of time upon which a certificate can be revoked. That would be a policy matter that would fall solely within the discretion of the college and probably in consultation with the ministry. However, it was our feeling that if the college, which we found out through the ministry had indicated that it was their intention to revoke certificates of regulation the second anniversary upon the suspension of that particular member—that if that is in fact their policy or their approach, they should make it clear in the language of the regulation.

But that being said, I would be happy to go back and take a look and see what language other colleges have

used. It was my sense that other regulatory bodies or other health profession colleges had used much more specific language than the chiropractors had.

Ms. Soo Wong: Thank you very much.

The Chair (Mr. Peter Tabuns): Mr. Walker?

Mr. Bill Walker: A point of clarification, and I may then have another comment once I have that answer, if I could, Mr. Chair.

Your recommendation—I support what you're doing. I'm just questioning, is there a reason from a technical side that you're not more specific? My thinking would be that we would just make the recommendation change, that the revocation automatically takes effect the day after the two-year anniversary of the member's suspension. Then you've already got your date; it's clear and it's done. Yours is a little bit still ambiguous the way it's written, and I just needed clarification on why.

Ms. Karen Hindle: I think the reason why we have included something that was more general was to give the opportunity to the ministry and the college to be able to craft their own language that they felt more comfortable with, but at the same time identifying the particular problem with the language as it already exists.

Now, if you would like us to be more specific in our recommendation, we're happy to do that.

Mr. Bill Walker: I mean, it's obviously the point of the committee, but my suggestion would be, let's be specific and get this thing done and behind us and move on to some more stuff because, to go back, they're just going to come back again.

The Chair (Mr. Peter Tabuns): You have an amendment to move—

Mr. Bill Walker: I would amend that the committee recommends that the Ministry of Health and Long-Term Care amend regulation 137/11 of the Chiropractic Act, 1991, to state that revocation automatically takes effect the day after the two-year anniversary of the member's suspension.

The Chair (Mr. Peter Tabuns): I will take that on board as an amendment. Are there any other amendments? Does the committee agree to that amendment? Agreed.

Is there any further debate regarding the recommendation as a whole? None? All those in favour of passing this recommendation, as amended? Opposed? Carried.

Will you read out the amendment, please?

Ms. Karen Hindle: The committee recommends that the Ministry of Health and Long-Term Care amend section 18(2) of O. Reg 137/11 under the Chiropractic Act, 1991, to state that revocation automatically takes effect two years after the date of suspension.

The Chair (Mr. Peter Tabuns): That's my understanding of it. Mr. Walker?

Mr. Bill Walker: Yes, I used the words "the day after the two-year anniversary," but—

Ms. Karen Hindle: Okay, two years after—

Mr. Bill Walker: Of the member's suspension.

Ms. Karen Hindle: Okay.

The Chair (Mr. Peter Tabuns): Okay. Ms. Hindle?

Ms. Karen Hindle: Section 18 goes on to a further subsection, which provides the circumstances in which a member whose certificate has been revoked can apply to be reinstated. In this particular case, the counsel on behalf of the committee expressed concern about two potential issues related to subsection 18(3).

The first one was that counsel questioned the payment of the amounts that the College of Chiropractors requires for an individual to apply for reinstatement. Under this particular regulation, a member whose certificate has been revoked, as a condition of application, not as a condition of reinstatement, has to submit an application as well as pay all of those monies of annual fees that they would have otherwise incurred had they been a member of the college during that particular time. According to bylaw 13 of the College of Chiropractors of Ontario, this amount is $1,050 each year. By way of example, if a member's certificate had been revoked for, say, a period of three years, as a condition of application they would have to pay over $3,000 as well as any applicable penalties and fees, which are not specified in the regulation itself. So counsel approached the ministry and asked whether it was, in fact, a condition of reinstatement or whether it was a condition of application. Counsel for the ministry said, "The amounts to be paid relate to a member's application for reinstatement. The provisions do not provide that every application for reinstatement will be granted. A person whose certificate was revoked under the regulation and who applies for reinstatement is required to pay the amounts set out in the subsection, whether or not his or her application is successful."

In this particular case, we are constrained in that we cannot comment on the policy that is underlying the decision of the College of Chiropractors to require its former members to pay these amounts as a condition of application. But we would recommend to the committee that it consider requiring the college to make it clear that those monies are a condition of application, not of reinstatement, and that the counsel, in consultation with the ministry, consider whether or not this is, in fact, a tax that goes beyond what the regulatory costs would be to consider a former member's application.

The ministry, in response to our concern about whether or not this constituted a tax, said that the payments were not unreasonable and that the ministry does not consider it to be a tax.

0940

According to the ministry, "The provision's requirement to pay these amounts is the result of non-compliance with the regulatory scheme and is part of the process for an application for reinstatement. As such, the amounts are neither excessive, nor do they impose anything in the way of a tax on a member in these circumstances."

Despite the ministry's letter, which attempted to explain the conditions under which these payments would be made, and the ministry's opinion that these amounts are not unreasonable, counsel nonetheless remained concerned about this. Despite the fact that apparently no

former members have complained about this, this is perhaps something that the college, in consultation with the ministry, should reconsider.

For example, under the Dentistry Act, a former member would only have to pay fees for those years in which they practised. That is an example of a different approach that was used by a different regulatory college. It doesn't mean that the College of Chiropractors has to adopt this particular approach; rather, counsel is recommending to the committee that it consider putting forward a recommendation that they go back and look at this again.

The Chair (Mr. Peter Tabuns): The recommendation is here before us. Does anyone have questions or comments—questions for the researcher, comments on this process? Mr. Kwinter.

Mr. Monte Kwinter: I'd just like clarification. I think in your comments you said that whether their application is accepted or not, they have to pay the fee.

Ms. Karen Hindle: Yes, that's right.

Mr. Monte Kwinter: It would seem to me that if someone has had their certificate suspended and they've been away for two years, and they have to pay to be able to leave when they're already suspended—I don't quite understand the rationale behind that.

Ms. Karen Hindle: What would happen is, if a member had been suspended, and then subsequently their registration was revoked, say five years down the road they decided, "Oh, actually, you know what? I want to be a chiropractor again," and they were to apply to the college for reinstatement, at that point they would have to pay as a condition of application, regardless of whether or not their application was successful, the amounts for each of those years in which they didn't practise, as well as fees and penalties.

Mr. Monte Kwinter: Well, that's where I have the problem. I can understand if they had been absent for five years and they say, "If you want to be reinstated, you're going to have to pay all of the back fees that you would normally have to pay." But if you apply and they say, "Sorry, we're still not accepting you, but you've got to pay the five years anyway even though you've been suspended"—I don't quite understand—which means you literally have to pay to quit, whereas it would seem to me that the way to do it is you pay to get reinstated, but you've got to pay up all your arrears.

Ms. Karen Hindle: From what I understand, this was a policy choice made by the college, that it requires these payments. You're right that regardless of if a member's application is successful or not—they could pay, for example, $5,000 only to be told—

Interjection: "Sorry."

Ms. Karen Hindle: —"Sorry."

The Chair (Mr. Peter Tabuns): So in your recommendation, you try to clarify that exact problem.

Ms. Karen Hindle: Yes.

There is also one other issue.

Interjection.

Ms. Karen Hindle: Sorry, I—

The Chair (Mr. Peter Tabuns): Go ahead, and then I'll take Mr. Walker.

Ms. Karen Hindle: Okay. In our original letter to the ministry, we also questioned whether or not the college had the requisite statutory authority to be able to pass one small element of section 18(3), and the ministry didn't actually address that particular concern. That is addressed in the third paragraph of the proposed recommendation, so I do think that that should be included as well.

The Chair (Mr. Peter Tabuns): Okay. Mr. Walker.

Mr. Bill Walker: Mine is a point of clarification. I apologize again. This is all relatively new to me, so I'm just trying to make sure I understand. I think what you said earlier is if it's a policy decision of the governing body, we really can't get into that. So that $1,000 fee, or whether it was a $5,000 fee, doesn't really matter.

But what you're suggesting to me currently is if I was a chiropractor and was suspended and sat out for five years, I would have to pay that $1,050 fee for five years upon my wishing to be reinstated, with no guarantee whatsoever that I would be reinstated, yet I've received nothing for that five years because I didn't practise. But we can't comment on that portion?

Ms. Karen Hindle: You're right. We cannot comment on the policy decision to charge the $1,050 a year, but what the committee can do is suggest that it might take the form of a tax and that it goes beyond the costs that the college would need in order to process the application.

The other piece of that is that the regulation, in our view, should make clear that the payment is a condition of application and not a condition of reinstatement, so that individuals know that the amounts that they're paying—they're taking a chance, and they could end up out of pocket, without reinstatement, in the end.

The Chair (Mr. Peter Tabuns): Mr. Walker, any further comments or questions?

Mr. Bill Walker: No. That's helpful. Thank you.

The Chair (Mr. Peter Tabuns): Okay. Mr. Hillier?

Mr. Randy Hillier: Yes, I might just add a comment, hopefully for clarification. I agree with the recommendations. I've known many professionals who have decided to leave the country for a year or two or do other things. We want to make sure that the province is welcoming for people to get back to work as well, when they decide to come back to work. So I'm all in favour of that.

I think the key point here is, there can be a fee for an application to be reinstated. But if the fee can be many different—it can be $1,000 or $5,000 or $10,000—then it can be viewed more as a tax than an application fee. So I think the chiropractors may have a little—I think, for clarity, this is what we should do: Proceed with this recommendation.

The Chair (Mr. Peter Tabuns): Okay. Any other commentary? Yes, Mr. Dickson?

Mr. Joe Dickson: Just a clarification, Mr. Chair, if I could: The college is the governing body, and that's the college's policy—

The Chair (Mr. Peter Tabuns): Can you bring your microphone down a bit? You're just a bit faint to my ears.

Mr. Joe Dickson: Sorry. The college is the governing body, and that is their policy. Correct me if I'm wrong. So we could make a recommendation, but we certainly have no authority. Does the Ministry of Health have jurisdiction over that?

Ms. Karen Hindle: My understanding is that the colleges consult with a ministry when developing these regulations, but—

Mr. Joe Dickson: I said "Ministry of Health"—any particular ministry, you know.

Ms. Karen Hindle: But I don't know whether there is a government body that oversees the colleges. I do believe that the ministry or the government tends to have representatives on the council or whatever the governing body is of a particular professional organization. But in fact, I don't know whether the ministry or another government entity, in fact, has oversight, I guess, or the ability to direct the college.

Mr. Joe Dickson: Okay. Just a hypothetical case, Mr. Chair: I'm just trying to think—if it was later in life, and I was a doctor of chiropractic, and my wife became very ill, I would even shut down my business to spend two or three years with her while she was still here. So I would have those fees to pay for each of those years, even though I'm not working.

Somewhere down the road, I might meet another lady—God strike me, if my wife ever came down from heaven and hit me—but she might recommend that I go back to work and make some money so she can live modestly.

0950

Is there a way around that? I see some heads over there and I know that—either side of me—they're saying there's a problem there. Can you make a recommendation?

Ms. Karen Hindle: Well, in this case, the provision that's of particular concern only deals with those members who have been suspended for failure to pay fees. And then, as a result of their continued suspension beyond two years, their application has been revoked. I would think—and I would have to go back to the original regulation—that the college probably has other provisions dealing with members who sort of voluntarily choose to withdraw their membership for a period of time. So they might take a leave of absence—to be honest, I don't know. It has been some time since we originally went through this regulation, but it is something that we can do.

The Chair (Mr. Peter Tabuns): May I say, Mr. Dickson—and I may be corrected by eminent people on either side of me—there seemed to be problems with the way the regulation was written. We can't actually rewrite the regulation, but we can make recommendations saying, "We think you have a problem here." And there seems to be a problem in that there's a lack of clarity, that people don't know that the money they pay is not automatically going to reinstate them. It's just the price of consideration.

There's concern that the back payments may be onerous and unjustifiable and that needs to be looked at. And there's concern here that there may be a lack of statutory authority for one particular piece.

So if we adopt this recommendation, we're going to go back to, I assume, the Ministry of Health and say, "This committee has reviewed this. We think there are problems here we want you to reconsider."

We can't correct an awful lot of problems, but where we see there is an issue, we can bring them to the attention of those who are involved in the decision-making.

I'm going to go to Mr. Kwinter and then Mr. Walker.

Mr. Monte Kwinter: Just on a practical matter, I can understand if you want to get reinstated, there's a fee. Whatever that fee is—it could be onerous; it doesn't matter—you do it. Your application gets turned down. What method do you have to collect that money? What leverage do you have to say to him, "You've got to pay for it or we're going to sue you for not being accepted"?

The Chair (Mr. Peter Tabuns): I'll let Ms. Hindle respond to that, but that's not really within our range of consideration at this point.

Ms. Karen Hindle: No. What happens is that the regulation—like you said, it provides that in order to apply, you must pay these fees. You can get turned down, and the college will hold back the fees.

Now, I understand that colleges do have I guess what would be considered an appeals process in the event that somebody is unhappy with a decision that is made by the college. But I'm not entirely clear that somebody could go through the courts in order to recover those monies, specifically since the regulation provides that, essentially as a condition of application, you're required to pay these fees. So they would be out that money.

Mr. Randy Hillier: Yes, I think that—

The Chair (Mr. Peter Tabuns): Sorry, Mr. Hillier, I think I have Mr. Walker ahead of you, and then I'm happy to go to you. Not a problem.

Mr. Bill Walker: I'm happy, Chair, to defer to Mr. Hillier on this note. Mine's more to the amendment, so once we're ready to explore the amendment, I just want to—

The Chair (Mr. Peter Tabuns): Okay, Mr. Hillier, if you have a comment.

Mr. Randy Hillier: I guess that's what it just comes down to: It provides clarity. The recommendation provides clarity to somebody putting out that money that this is not a reinstatement fee; this is an application fee and is subject to loss. So it provides that clarity to the individual engaging in the process.

The Chair (Mr. Peter Tabuns): Mr. Walker.

Mr. Bill Walker: Thank you, Mr. Chair. Mine would just, again, be a friendly amendment to the existing recommendation that we add that 120-day time limit to it.

The Chair (Mr. Peter Tabuns): I'll do that in bulk, for everything.

Mr. Bill Walker: Great, thank you.

The Chair (Mr. Peter Tabuns): I am assuming there's no further debate. All those in favour of adopting this recommendation, please raise your hands. Opposed? Carried.

Ms. Hindle.

Ms. Karen Hindle: Now, the next regulation falls under the jurisdiction of the Ministry of the Attorney General. It's Ontario regulation 147/11 (General—Games of Chance Held Under a Licence) under the Gaming Control Act. In this case, 147/11 amended the original or parent regulation, which was 197/95 under the Gaming Control Act. It's interesting in that 147/11 is just a housekeeping amendment; all it does is remove references to "of Alcohol and Gaming." Rather than having "Registrar of Alcohol and Gaming" in the regulation, it provides just the term "Registrar."

However, in reviewing this particular regulation, we identified a problem with the parent regulation. As I mentioned, in the standing orders every regulation is permanently referred to this committee, so it doesn't matter that the original regulation might have been made in the 1990s. This committee has the ability to review all regulations, no matter at what time they were made.

In this case, counsel identified a problem with one of the sections, because it provided that registered gaming services suppliers must implement an internal control system that complies with policies established by the registrar. In this case, we were unable to find sufficient statutory authority to require gaming services suppliers to, in fact, do this.

In response to counsel's questions, the ministry provided sections in the act that it felt provided sufficient statutory authority for the internal control systems. However, counsel, upon reviewing those regulations, nonetheless felt that this remained an issue—that there wasn't explicit statutory authority to do so.

There isn't a recommendation for this particular regulation, because in 2012, the parent regulation, 197/95, was in fact revoked. In some respects, it's a bit of a moot point in that this issue no longer exists, because the original regulation no longer exists, but that being said, counsel thought that it was of sufficient concern that it should be reported, in particular, that the sections cited by the ministry as sufficient for statutory authority—that perhaps the committee did not agree that that, in and of itself, was enough.

The Chair (Mr. Peter Tabuns): Is there any recommendation here for us?

Ms. Karen Hindle: No.

The Chair (Mr. Peter Tabuns): No.

Are there any questions on this section before we go to the last recommendation? There being none, thank you.

Ms. Karen Hindle: The last regulation that might potentially be reported is Ontario Regulation 430/11 (Forms) under the Land Titles Act. This falls under the jurisdiction of the Ministry of Government Services. This forms regulation requires that applicants who are seeking to register an inhibiting order in a non-electronic format provide any evidence that the director of titles or land registrar may require.

In other words, in making an application, the registrar can require under the regulation as it exists now that the applicant provide certain types of evidence. This all deals with land titles. Now, the problem is that in this case, the regulation was made by the director of titles. Unfortunately, the act does not permit the director of titles to make this type of regulation; rather, it has to be made by the minister.

Interjection: The minister?

Ms. Karen Hindle: Yes, that only the minister has the authority to make regulations governing evidence. As a result, counsel wrote to its counterparts at the Ministry of Government Services and identified this problem. The counsel for the ministry acknowledged that this was an error and informed us that they intended to remake this particular provision. However, as of early April, this provision has not been remade, so there remains an outstanding concern about the statutory authority for section 14(1).

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The Chair (Mr. Peter Tabuns): Thank you. Are there questions? Commentary?

All those in favour, please raise your hand. All those opposed, please raise your hand. Carried.

Thank you for going through that report for us. Shall the draft report, including recommendations—

The Clerk of the Committee (Ms. Tamara Pomanski): As amended.

The Chair (Mr. Peter Tabuns): Ah, sorry; thank you. Shall the draft report, as amended, including recommendations, carry? Mr. Walker?

Mr. Bill Walker: Chair, may I ask a point of clarification?

The Chair (Mr. Peter Tabuns): Yes.

Mr. Bill Walker: The rest of the report that's here—for example, I'm looking at Regulations Reported in First Report 2010—

The Chair (Mr. Peter Tabuns): Yes.

Mr. Bill Walker: I'm looking at the current status: "As of the time of writing, the ministry has not amended section 2 of O. Reg 282/98 to include either property class." I'm just questioning, are we not doing any action with this to get these finalized and finished? By accepting the report, my concern is we're not taking any action on these ones that are still outstanding.

The Chair (Mr. Peter Tabuns): Okay. Could you speak to that, Clerk?

The Clerk of the Committee (Ms. Tamara Pomanski): Yes, as I mentioned last year, we agreed as a committee to report back and to report to the government, so we sent out letters recommending them to change things. I think we've heard back from all ministries based on all the recommendations. Is this the one that—was that their response?

Ms. Karen Hindle: No. We went back as far as the April 2010 report—that goes back, for regulations, as far back as 2008—in order to follow up, I guess, on the committee's original recommendations and to determine whether or not the ministry had, number one, responded

by way of a letter, but also whether or not they had addressed the underlying recommendation. So each of these sections outlines those regulations that were addressed in a prior report. It provides the recommendation that was made by the committee, the initial ministry response and the current status.

Mr. Walker, you're right that there are circumstances in which the ministry might have committed to do something; for example, with the Assessment Act, which is the first entry on pages 13 and 14, where they said that they intended to amend the regulation by prescribing the residual property class and the resort condominium property class as classes for the purposes of the act. However, to date, they have not done so. There are also other situations where a ministry has said, "We've taken your recommendation into account and we don't agree." So, obviously, they have not taken any further action on that, but there are circumstances where the ministry has indicated that they intend to follow up on the recommendations that were made by the committee, but they have not yet done so.

Mr. Bill Walker: My question of clarification is, within the scope of this committee, is it within our wherewithal to actually go back to these and request that ministry, again, with a timeline, to have that done? Otherwise, to me, we just continue adding to the churn. We ask for a report, we get it and they do nothing. We come back a year later, we ask for a report, they give it and we do nothing. When does this act ever get actually enacted or the revisions enacted?

The Chair (Mr. Peter Tabuns): I ask the Clerk for her advice in this matter.

The Clerk of the Committee (Ms. Tamara Pomanski): I'd have to double-check, but I'm under the assumption that we can only recommend to the ministries to do something. I don't think we have the jurisdiction to tell them what to do; we can recommend. So, if you notice in the recommendation, "the committee recommends"—I know, going back, actually, Mr. Walker, when you were talking about 2010, I was referencing when I was speaking with you and I got confused; it was 2012. So, last year when we met there were six, I think, recommendations. We sent out responses or letters asking them to revise their recommendations based on our recommendations. I think we heard back from every single one and I think all of them were changed—Karen?—or close to it. There was a response with a lot of them.

Ms. Karen Hindle: Most of them, I think, were, but I don't believe all of them.

The Chair (Mr. Peter Tabuns): Did you have a further follow-up on that?

Mr. Bill Walker: Well, I guess, having received that information, I think I would be prepared to put a motion that we, as a committee, send to any of those that are outstanding and have not been enacted a recommendation that we would like to see them either implemented within a time period or have a reason why they have not.

The Chair (Mr. Peter Tabuns): Could you—

Mr. Bill Walker: Write that up? Sure.

The Chair (Mr. Peter Tabuns): —draft that? Will you draft that? In the interim I'm going to have Mr. Hillier and Mr. Dickson.

Mr. Randy Hillier: Yes, I just thought for clarity it might help—this draft report, we've gone through a portion of it for 2011, the regulations for 2011, but there's all this subsequent material in here as well. If we took the opportunity sometime to go through the rest of the report for the regulations that start on page 13 and continue through, and maybe at that time, after we get a little bit more understanding and clarity of what remains outstanding, we provide either further recommendations to the ministry or table a report to the House at that time that there are a number of outstanding concerns that have not been addressed by ministries.

The Chair (Mr. Peter Tabuns): Mr. Walker, have you drafted your amendment?

Mr. Bill Walker: I have not, and I am amenable to further review. Then I will create a recommendation for the next meeting.

The Chair (Mr. Peter Tabuns): Okay, because I think where we're going is we may want to hold this down, come back and do that review.

Mr. Dickson.

Mr. Joe Dickson: I'm probably saying the same thing they are—just that if you do a piece of business/professional correspondence back to them—asking them for an update within 90 days, and proceed from there.

The Clerk of the Committee (Ms. Tamara Pomanski): For all the outstanding—Karen, do you want to clarify—

Ms. Karen Hindle: Yes. We have received letters in respect of most of these. We could write letters dealing with those recommendations that were not addressed in some form. So either a ministry could have gotten back to the committee to say, "We do not agree. We still believe that it's valid"—that situation is different than another ministry or another situation where a ministry has said, "We agree that there is a problem here. We should change it," but then they never did.

We would be happy to send letters for the latter situation.

Mr. Joe Dickson: And that would be carte blanche. Whatever is outstanding should be done so that the committee has all of that information at their fingertips.

The Chair (Mr. Peter Tabuns): Would that satisfy the members of the committee, writing to all of those ministries where action is outstanding and asking for a report back, given that they have promised, in a number of cases, to take action and have neglected to do so?

The Clerk of the Committee (Ms. Tamara Pomanski): Based on from what year to what year?

The Chair (Mr. Peter Tabuns): Well, I would say from 2010 forward.

Ms. Karen Hindle: From the report that was—

The Clerk of the Committee (Ms. Tamara Pomanski): From your reporting list?

The Chair (Mr. Peter Tabuns): From the reporting list. Sorry, the 2010 report refers back to—

Ms. Karen Hindle: To 2008.

The Chair (Mr. Peter Tabuns): —to 2008-09, but from the reporting list, 2010 forward.

Mr. Randy Hillier: I would just say we don't mind looking at it. It appears that the second half of that 2010 report—most of the stuff has been dealt with, but there are just a few that remain outstanding. We may want to consider what the actual response has been from the ministries on those that are still outstanding.

The Chair (Mr. Peter Tabuns): In this case, simply sending a letter at this point saying "We want you to respond" is not the direction you want to go in. You want us to come back and look at the responses we received to date.

Mr. Randy Hillier: Yes, and maybe I'll just put this to the committee. The last one that's on page 21, for example, from the Pharmacy Act: We raised concerns about the Charter of Rights and Freedoms, and the response from the ministry—I'm sure there was far more response than what is shown here, but it basically just said, "We don't consider that that's a charter violation and we're not acting on it." I think it would be proper for the members of the committee to actually review some of this response in detail before we—

Interjection.

Mr. Randy Hillier: Yes.

The Chair (Mr. Peter Tabuns): Okay. I think I have a sense from the committee, then, to hold this down. We aren't adopting this report at this time. We're going to come back. We're going to go through the outstanding items of business, consider those and a course of action. Is that a fair summary? I'm not seeing any violent disagreement. We will hold that over, given our proximity to question period.

Mr. Randy Hillier: May I ask one additional question? On page 23, you have section 33 of the Legislation Act, and just for clarity here, if the Clerks could give us some—subsection 4 refers to, "The standing committee may examine any member of the executive council or any public servant designated...." For clarity, does that public servant mean someone who is in the broader public service? I'll give you an example: somebody who works for a local public health unit but is administering provincial regulations. Would that person qualify?

The Clerk of the Committee (Ms. Tamara Pomanski): Mr. Hillier, I'd have to get back to you on that one.

Mr. Randy Hillier: Okay, if you'd just—and also, one other question: if there is a provincial administrator who's also possibly administering federal regulations, if that includes federal acts.

The Chair (Mr. Peter Tabuns): Mr. Walker.

Mr. Bill Walker: A point of clarification, Mr. Chair: By not adopting or approving this report in its entirety today, because we have further work to do, does that negate any action happening with the recommendations? My concern would be that we want that clock to start ticking as quickly as possible on that 120 days.

The Chair (Mr. Peter Tabuns): Yes, it's on hold until we adopt the report as a whole.

Mr. Randy Hillier: We'll be back next week?

The Chair (Mr. Peter Tabuns): We can be back next week

Mr. Bill Walker: If not, then I think we should take a look at parcelling those pieces out so we can move those forward and get those clocks ticking. But if we're going to meet next week, we can address it then.

The Chair (Mr. Peter Tabuns): I would suggest we meet next week. A week is not going to make that big a difference and we can see how far we can get.

Mr. Bill Walker: Sure. Thank you.

The Chair (Mr. Peter Tabuns): There being no further business—Mr. Dickson?

Mr. Joe Dickson: Just a question: We are going to do correspondence?

The Chair (Mr. Peter Tabuns): That is going to be decided by this committee when it comes back in a week, because there are a number of questions that have arisen about this. So before we send out letters, let's have the committee meet and work issues through; hopefully at that point, we will clarify our course of action, adopt this report, and letters, in some instances, will go out.

Mr. Joe Dickson: Just because if there's close to 500 pieces we may look at, I'm not interested in looking at them. I'm interested in looking at those that may be of question, and that might be three or four or five or six.

The Chair (Mr. Peter Tabuns): For clarification—

Mr. Joe Dickson: I'm not interested in spending a few months on this.

The Chair (Mr. Peter Tabuns): Maybe I am unwise in making this prediction, but I don't think this committee will look at 500 regulations. I think this committee will look at the four that we were looking at for the year before and the ones that are included in the report.

Mr. Joe Dickson: Thank you, Mr. Chair.

The Chair (Mr. Peter Tabuns): I understand your concern, Mr. Dickson.

This committee stands adjourned.

The committee adjourned at 1013.

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ISSN 1180-4319

Legislative Assembly of Ontario

Second Session, 40th Parliament

Assemblée législative de l'Ontario

Deuxième session, 40e législature

Official Report of Debates (Hansard)

Wednesday 8 May 2013

Journal des débats (Hansard)

Mercredi 8 mai 2013

Standing Committee on Regulations and Private Bills

Comité permanent des règlements et des projets de loi d'intérêt privé

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Room 500, West Wing, Legislative Building
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Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario

Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 8 May 2013

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Mercredi 8 mai 2013

The committee met at 0900 in committee room 1.

DRAFT REPORT ON REGULATIONS

The Chair (Mr. Peter Tabuns): Committee comes to order. We have one item: consideration of the draft report on regulations 2011.

At our last meeting, we left off at page 13. Mr. Walker, you had raised questions about regulations that we had previously brought to the attention of ministries in cases where ministries had agreed to make changes but, as of the date of this report, we had not yet seen those changes. My suggestion to the committee is that we go through each of the regulations that have been reported on, and where there has not been action as either promised or agreed, we make a decision as to what step we take. Is that good for the committee?

Mr. Randy Hillier: Seems fine.

The Chair (Mr. Peter Tabuns): Okay. On page 13, "Regulations Reported in First Report 2010," regulation 90/08 (General), made under the Assessment Act: When you go to current status, it says, "As of the time of writing, the ministry has not amended s. 2 of O.Reg. 282/98 to include either property class." Just note that the ministry's response was that it intended to amend the regulation to that end. Could I have a comment from the researcher on this?

Ms. Karen Hindle: As you can see in your packages that you received this morning, we were able to track down the original letter which we had sent to the ministry, but we don't have the initial reply. I guess because it's a few years old, we're going to need some additional time to track down the letters. However, the ministry's response to the recommendation section is based on that report. The first report of 2010 is what was summarized as the ministry's position. Counsel for the committee went back and took a look at the regulation in order to determine whether or not any action has been taken. As of the time that this report was written, no action had yet been taken; no amendment had been made.

The Chair (Mr. Peter Tabuns): The committee is free to make recommendations. Mr. Walker, you brought this up initially. You may have other thoughts, but it occurs to me that you could move a motion that we send a communication to the ministry pointing out that they had agreed to amend as had been recommended, that the amendment has not been made and that we want a report back on the amendment within a specified period of time.

Mr. Bill Walker: I would offer such a motion.

The Chair (Mr. Peter Tabuns): Okay. Mr. Koch, do you need that in writing, or do you have enough?

The Clerk Pro Tem (Mr. Katch Koch): If the members are okay; if the members want something in writing, we can have something drawn up.

The Chair (Mr. Peter Tabuns): If you're okay with that? Time period, 120 days?

Mr. Bill Walker: Sure.

The Chair (Mr. Peter Tabuns): All those in favour? Opposed? Carried.

The next item, then, is Ontario Reg. 338/09 (General) made under the Nutrient Management Act, 2002, (amending O.Reg. 267/03). The ministry response to the recommendation: "In its initial response to the committee's letter, the ministry stated that the purpose of s. 8.3(1) was not to create an exemption from part V of the Environmental Protection Act, but rather to set out the technical requirements for such an exemption."

Current status: "As of the time of writing, the phrase 'is exempt from' in s. 8.3(1) has not been amended."

Do you have comment, Researcher?

Ms. Karen Hindle: This is an instance where the ministry took the position that the regulation need not be amended. Unlike the regulation that we just discussed, the Assessment Act, where the ministry agreed that changes needed to be made, this is an example where the ministry disagreed with counsel for the committee and felt that the language in the regulation was sufficient. We put the current status just to advise you and ultimately, I guess, the public that that phrase has not been amended. However, this is not an instance the ministry committed to doing something and has not followed through.

The Chair (Mr. Peter Tabuns): Sorry, in this one?

Ms. Karen Hindle: Yes. The Nutrient Management Act.

The Chair (Mr. Peter Tabuns): Right, okay.

Mr. Bill Walker: Chair, may I ask a point of privilege?

The Chair (Mr. Peter Tabuns): Mr. Walker?

Mr. Bill Walker: So they're suggesting they do not need—could I have your view on whether you believe that or you agree with it?

Ms. Karen Hindle: Well, ultimately, the committee isn't able to force the ministry to make the change. In our

letters—as you can see, there is a copy of our original letter which is sent to Michael Brady—we highlight what we perceive to be a particular problem with a regulation, and then it is up the ministry to reply.

Now, there are instances like the one with the Assessment Act where the ministry agrees that a problem has arisen, but in the event that the ministry disagrees, the committee's hands are tied, in a sense. We can make a recommendation, but we can't force the ministry to change its position.

Mr. Bill Walker: I guess my question is more to the point that they suggest that there should be a technical requirement for such an exemption, and then they're suggesting that they don't believe that there is a need for an exemption, but did they do the technical clarification? From your perspective from a legal side, have we got that covered clearly so that if a layperson was reading it, they know that that technical ability is there? Because if not, then I think what we should be doing is, again, sending back to the minister—getting that we can't tell them they have to change, but we're still concerned that the action they said they would do is not complete. This is 2010 again, so we're three years out, and nothing has happened.

Ms. Karen Hindle: I can't speak to your specific question; I would have to look into it. But I will say that generally the committee will only make a report on a regulation where it has disagreed with the ministry's assessment. So there are instances; for instance, this year there were, I believe, 15 letters that were sent out, but in counsel's view, there were only four that were worth pursuing or mentioning in the report. In the first report of 2011, this was an instance where the committee felt that, despite the response from the ministry, they still disagreed.

Now, I'm happy to go back and take a look at the regulation, and once I am able to get my hands on the response from the ministry, to provide you with more of an opinion than that, but that typically is how the reports are structured. My sense would be, without actually going into the regulation itself, that there was nonetheless something—

Mr. Bill Walker: They have not completed yet, and we should be pursuing it.

The Chair (Mr. Peter Tabuns): Mr. Walker, do you have a motion?

Mr. Randy Hillier: I've just read—I don't see the response from—

Ms. Karen Hindle: No, this is an instance where the replies and the letters are quite old, so you will find, as we go through the dates, that we do have the replies, but we are trying to track down the replies from the ministry. Once we have them, we will provide copies to committee members.

Mr. Randy Hillier: Okay. All these are just the correspondence from the legislative committee, not the replies back from them?

Ms. Karen Hindle: No, just the first three only include our letters to the ministries and not the reply. With the exception of those three, the others can include the correspondence back and forth between the ministries and the committee.

The Chair (Mr. Peter Tabuns): Your question is satisfied?

Mr. Randy Hillier: Yes.

The Chair (Mr. Peter Tabuns): Mr. Walker.

Mr. Bill Walker: Chair, if I could just maybe ask a question before a motion: Are you more comfortable having more research before we put a motion on the table to pursue this further?

Ms. Karen Hindle: I would.

Mr. Bill Walker: I will defer making a motion until we've had further correspondence from the legislative branch, and we'll go forward, but the intent would be that we move forward with some action.

The Chair (Mr. Peter Tabuns): Okay. Then O.Reg. 273/08 (Adoption Information Disclosure): The ministry, if I understand this correctly, didn't feel that any change was needed, and so as of the time of this writing, no amendment had been made.

Do you have further comment on this one?

Ms. Karen Hindle: No. I think that this is a similar situation to the regulation that we just discussed where the ministry disagreed with counsel and ultimately the committee, that no changes needed to be made, so they never pursued any.

Mr. Walker, if you would like, we would be happy to go back and undergo the same sort of research and provide the committee with additional information about that so that the committee can make a decision as to whether or not to pursue the issue.

0910

Mr. Bill Walker: That would be fine with me.

The Chair (Mr. Peter Tabuns): As I go through ones that are left outstanding, next on page 20, Ontario Reg. 21/10 (General), under the Condominium Act, 1998, amending Ontario Reg. 48/01: The ministry responded that it is currently engaged in a review of the Condominium Act and that its regs may need to be changed. As of the day of this writing, the reg has not been amended.

Do you want to comment?

Ms. Karen Hindle: Yes, Mr. Chair. You will find in your package the letter which was originally sent by the legislative research service on behalf of the committee as well as the ministry's reply. Now, this is an interesting case in that the ministry agreed that there was a problem with the regulation; however, as you may know, the ministry is undergoing a substantial revision of the Condominium Act.

The Chair (Mr. Peter Tabuns): Right.

Ms. Karen Hindle: So they asked the committee whether or not they would consider putting this aside until the new legislation was passed, with, my understanding is, the intention that then they would draft new regulations to accompany the new act.

Now, as of this time, my understanding is that the new legislation has not passed, so there are no new regulations. The problem with the current regulation still

stands. The ministry has agreed that they will address it; however, it has not yet been addressed.

The Chair (Mr. Peter Tabuns): Mr. Walker, did you want to move a motion—in light of the fact that the legislation has not been revised and this problem still exists—that we want the ministry to reconsider our initial concerns and come back to us?

Mr. Bill Walker: Yes, please.

The Chair (Mr. Peter Tabuns): Moved by Mr. Walker. Any discussion? All those in favour? Opposed? Carried.

The next one down is Ontario Reg. 348/10 (General), amending Ontario Reg 573/99, and 349/10, fees, under the Apprenticeship and Certification Act.

The ministry responded by letter on August 22 that it supported the recommendation and would propose that the minister remake the French-language version. The current status as of the time of writing: Ontario Reg. 573/99 has not been remade.

Ms. Karen Hindle: In your packages, you will find a copy of the original letter which counsel sent to the ministry and its original reply. Then, at the back of the package, you will find a letter directed to the Clerk of the committee dated August 22, 2012, and it reads in the last paragraph, "I am pleased to inform you that the Ministry of Training, Colleges and Universities supports the recommendation and will propose that the minister remake the French-language version of the above-noted regulation as a minister's regulation."

In this case, just to provide you with some background, this was an instance where the regulation was made by the wrong person. I believe in this case what happened was that the Lieutenant Governor in Council made the regulation when it should have been the minister. As of the time of our preparing this draft report, no changes—the regulation had not been remade.

The Chair (Mr. Peter Tabuns): Is there anyone who would like to move a motion on this?

Mr. Bill Walker: Well, similarly, I think we re-address the minister or whoever to correct the glitch and have that acted upon appropriately.

The Chair (Mr. Peter Tabuns): Okay. Any discussion? All those in favour? Opposed? Carried.

The next is Ontario Reg. 79/10 (General), under the Long-Term Care Homes Act, 2007. The ministry responded that there is no strict rule against sub-delegation. "In view of your continuing concerns, however, we will continue to review this issue with the ministry clients when changes to this act or regulation are being contemplated."

So as of the date of this writing, the reg had not been amended.

Ms. Karen Hindle: You will find this particular regulation in your last stapled package. The way that counsel for the committee works is that typically, we try to send letters to the ministries that address all of our individual issues. So you will notice that on page 2 of the letter, we raise our concerns with Ontario regulation 79/10. You will find a copy of the reply further down, and ultimately a letter that was sent by the ministry to the Clerk advising that they would continue—not committing to actually changing the regulation, but that they would continue to monitor.

The Chair (Mr. Peter Tabuns): Any further questions for research? Is there any motion that anyone wants to propose on this? Mr. Walker.

Mr. Bill Walker: At the risk of being a pain, could you just clarify—I hadn't had time to look it up, obviously, because I just stepped away from the table—is the monitoring enough? Did we ask them to make a change in this case and they didn't do anything? If that's the case, then again, I'm back to my same old principle. If you're saying that you're going to do it, then let's get on with it. If there's not a recommendation from the committee to say you're changing something and they're monitoring, I'm okay with that.

Ms. Karen Hindle: My understanding is that the committee made a recommendation that the ministry should at least reconsider their position. The ministry came back and did not commit to making a change. Rather, they said—and you can find it at the bottom of the last letter in that package—"[a]s there is no strict rule against subdelegation, it continues to be our position that subsection 295(2) of O.Reg. 79/10 is valid. In view of your continuing concerns, however, we will continue" to monitor "this issue with the ministry clients when changes to this act or regulation are being contemplated."

In this case, they never actually committed to making a change, but rather, in the event that the legislation or the regulation as a whole is being amended, that they would consult about the issue.

Mr. Bill Walker: I guess my question is, from the committee's perspective—because I don't recall this one—if we thought it was an issue at the time, and the issue hasn't gone away, what we're doing is going in circles and saying, "Well, we have an issue, but I guess we'll just turn our heads and let it roll."

Ms. Karen Hindle: You're right, Mr. Walker. The difficulty in this situation is that the committee can't force the ministry to make the change. The option is open to the committee if they want to re-recommend that the ministry take a look again at this issue, and, depending on the language used, the committee can be more forceful. But in the end, it's up to the ministry to decide whether or not to pursue the recommended course of action.

Mr. Bill Walker: My personal perspective would be that we do re-send the letter asking them to reconsider. We are concerned—whether we want to use language to the effect that they're in violation of their own governance, and I don't know this one well enough to know if that's the case, but I'll maybe ask Mr. Koch if that's the case, if we believe that there is something that they're violating, and ask from that perspective that they review.

The Clerk Pro Tem (Mr. Katch Koch): If it is the will of the committee, we will re-write them. As the researchers had expressed, at the end of the day, it is—

Mr. Bill Walker: Up to them.

The Clerk Pro Tem (Mr. Katch Koch): Up to them, yes.

Mr. Bill Walker: Yes, I agree.

The Clerk Pro Tem (Mr. Katch Koch): But if the committee feels strongly about re-writing the ministry, we will do that.

Mr. Bill Walker: It just seems to me if we don't, we're not doing our job. If there's something out there that we've recommended that could be a betterment—I mean, unless they can give us a very valid, black-and-white, "We will not do this because X, Y, Z," to just say, "I'm going to continue to review" to me is just a perpetual loop of nothing getting done.

The Chair (Mr. Peter Tabuns): Mr. Walker, are you proposing a resolution?

Mr. Bill Walker: I will put a motion on the floor to re-recommend, Chair. Thank you.

The Chair (Mr. Peter Tabuns): And that a letter be sent to the ministry and we be informed of the response. I assume you want a time frame on that.

Mr. Bill Walker: Yes, please: 120 days is fine. Thank you.

The Chair (Mr. Peter Tabuns): Any further discussion? Mr. Vanthof.

Mr. John Vanthof: I would like to add something to the effect—because they agreed to monitor. Well, "monitor" is also an action item. If they have been monitoring this, have they got a reason why they don't want to do it?

0920

The Chair (Mr. Peter Tabuns): Yes. I'll take that as an amendment. Is there any further discussion, then, on the resolution, as amended?

All those in favour? Opposed? Carried.

Ministry of Health and Long-Term Care: I'll leave you to read this one out.

Ms. Karen Hindle: All right. This regulation is dealt with in the same package as the last one, and you will find it under number 5, which is 451/10—

Mr. Randy Hillier: Page 5?

Ms. Karen Hindle: No, sorry. Under the "Re:" line, it's number 5. I will find the page reference. It is on page 6 of our original letter.

Mr. Bill Walker: Which package are we on?

Ms. Karen Hindle: It's the same package that we were looking at just a few minutes ago. It's on page 6 of that package.

As committee members may recall, this is the regulation where the committee raised the possibility that the regulation violated section 11(d) of the charter, which guarantees the presumption of innocence.

In this case, what was occurring was that the regulation provides that a former member is not eligible for reinstatement if they have been subject to a criminal court proceeding. The problem that was raised by the committee is that it doesn't provide specifically that the person was convicted; rather, anybody who is brought before a court of law could potentially be ineligible for reinstatement, under this particular provision.

The ministry wrote back, as you can see in the next letter, and you will find it on page 4 of their letter. Essentially, they—

Mr. Bill Walker: Sorry. I think I'm lost, and Rod's lost. Can you just tell us which package you're in? Because I don't see a letter.

Interjection.

Interjection: Which pile?

Mr. Bill Walker: Yes, there are a lot of piles here. There's a lot of paper here today. I just want to make sure I'm following—

Interjections.

Mr. Bill Walker: This is the one. There we go. That's why, because when you were in the last package, I was in a different one. I apologize.

Ms. Karen Hindle: No problem.

Interjection.

Mr. Bill Walker: Page 6—

Ms. Karen Hindle: Yes, you will find it on page 6—

Interjection.

Ms. Karen Hindle: No, that's not the right letter.

Interjection.

Ms. Karen Hindle: No. If you look on the front page of this package, it's dated April 18, 2011.

Mr. Bill Walker: Oh, page 6.

Ms. Karen Hindle: If it's the right package, if you look on page 6, you will find the reference to O.Reg. 451/10 under the Pharmacy Act.

Mr. Bill Walker: Thank you. I'm now on the right package.

Ms. Karen Hindle: Mr. Jackson, I can provide you with another copy.

Interjection.

Mr. Bill Walker: A lot of paper. Thank you very much.

Ms. Karen Hindle: So, as noted on page 6 of our original letter, counsel on behalf of the committee raised a concern with respect to reinstatement of former members of the Ontario College of Pharmacists.

Section 24, which is at issue here, provides that a former member would be ineligible for reinstatement if he or she—and it lists a number of different circumstances. In particular, it provides under 24(3)(b) that the member "was, at the time he or she ceased to be a member or at any time since, the subject of a proceeding in respect of," and these proceedings deal with criminal offences as well as drug offences and an offence dealing with the practise of pharmacy.

Counsel, on behalf of the committee, raised the issue that this provision potentially violated section 11(d) of the charter in that it didn't provide that a former member would only be ineligible for reinstatement in the event that they were convicted, not simply subject to a proceeding, and/or that an individual who had received a pardon would also be ineligible for reinstatement.

If you go on to the letter that was sent by the ministry in reply, if you look at page 4 of that letter, you will find the reply from the ministry. The ministry takes the position that the section does not contravene section

11(d) of the charter and that, in fact, it's simply a policy decision of the college.

The committee, when preparing its 2012 report—and any of the members who were here last year would know that it was deemed to be of sufficient concern that the committee decided to pursue the issue. If you keep going in the package, you will find another reply from the ministry directly to the committee.

The Chair (Mr. Peter Tabuns): On the Pharmacy Act?

Ms. Karen Hindle: Yes. If you look at the second page of that letter, it restates its position that section 11(d) of the charter does not apply in this case and that any consideration by the college of a former member's charges is a policy choice of the college and that the charter has essentially no role to play here.

In this case, the particular section at issue has not been amended, and that, in my opinion, reflects the position of the ministry that there's nothing wrong with it.

The Chair (Mr. Peter Tabuns): Thank you. Any questions for the researcher? Mr. Hillier.

Mr. Randy Hillier: I don't know if it's a question for the researcher, but I've read the ministry response. It's pretty circular. Maybe I will ask a question of research. The response from the ministry seems absolutely ridiculous, the way I'm reading it—that you cannot be reinstated if you have had a charge, even if you've been acquitted, but you can apply for a new licence. I don't know what the difference in costs or procedures is between a reinstatement and a new applicant. Then they also say that it only applies while the charges are in place, but that's not what the regulation says at all.

The Chair (Mr. Peter Tabuns): Yes, Mr. Hillier?

Mr. Randy Hillier: Have you got a different view of my reading of that?

Ms. Karen Hindle: Well, I would have to go back and look at the regulation and in particular the ministry's response in more detail, but it's my understanding that the committee looked at the response last year, the original response. My understanding, looking at the further response that was sent to the committee after it met and after the report was prepared, is essentially it's a reiteration of its previous position that it sent to counsel, and that the committee continued to have a problem, despite the ministry's position that it didn't violate the charter and that it was essentially a policy choice.

If you would like me to look into more detail as to whether or not the ministry's arguments make sense, I'd be happy to. At this stage, though, I would need more time before giving you an opinion on that issue.

The Chair (Mr. Peter Tabuns): Mr. Hillier.

Mr. Randy Hillier: No, that's fine. I think that this one we should look at a little deeper; that argument looks circular.

0930

The Chair (Mr. Peter Tabuns): Are there any other questions for the researcher in this matter? Are there any motions on this matter? There are none. Okay.

Mr. Randy Hillier: Just an understanding that research come back with some further clarification from the—

The Chair (Mr. Peter Tabuns): I think if you want that, we can ask simply that research come back with further comment.

Mr. Randy Hillier: Yes.

The Chair (Mr. Peter Tabuns): Does anyone have any difficulty with that? I think it's understood.

Okay. We have completed the review on this report. We're at a stage where we can carry forward on this report, or do you want it held down until we hear a response? Actually, you know what? We're asking for a response within 120 days. I personally believe we need to move forward and approve the report. This, Mr. Walker, was something we raised at the last meeting of the committee.

Are people ready to vote on this report?

Mr. Randy Hillier: May I ask—the report will include in it that there are these outstanding items that the committee is continuing to investigate?

The Chair (Mr. Peter Tabuns): It can be flagged, if that is the wish of the committee.

Mr. Randy Hillier: Yes, I think it would be important for when the report is tabled back to the House that there are still items that need to be addressed.

The Chair (Mr. Peter Tabuns): Then that's fine. The report has been amended, and it will be reported in an amended form.

Shall the draft report, as amended, including recommendations, carry? Carried.

Who shall sign off on the final copy of the draft, the Chair or the subcommittee?

Interjections.

The Chair (Mr. Peter Tabuns): I have opposing views on this.

Mrs. Donna H. Cansfield: If I may, Chair, wouldn't the subcommittee sign off and take it back to the committee?

The Chair (Mr. Peter Tabuns): Typically, I have signed off on them and taken them to the House the same day.

Interjection.

The Chair (Mr. Peter Tabuns): Okay. If it goes to the subcommittee, it gets delegated to the three subcommittee members and the Chair to sign off, so three signatures.

I gather that's agreeable to everyone, that it be signed off by the subcommittee? Done.

Upon receipt of the printed report, shall the Chair present the report to the House and move adoption of the recommendations? Agreed? Agreed.

Shall I request that the government table a comprehensive response to the report within 120 calendar days of the presentation of the report to the House, pursuant to standing order 32(d)? Agreed? Done.

I've been asked by the researcher for leeway to correct a few small errors. Before I ask you that, these are typographical errors?

Ms. Karen Hindle: Yes. There's one instance where there's a spelling error and another instance where there's a space that's missing.

The Chair (Mr. Peter Tabuns): I think we're all agreed.

If the committee is agreed—this time we did not have all the supporting letters, the letter to the ministry and the letter back from the ministry. It has been suggested that we, in future reports, include the correspondence so that members of the committee can see the history of back-and-forth. If everyone's agreeable to that? Do you need that as a formal motion?

The Clerk Pro Tem (Mr. Katch Koch): No.

The Chair (Mr. Peter Tabuns): No. Fine.

Mr. Hillier?

Mr. Randy Hillier: New business. Are you adjourning or are you—

The Chair (Mr. Peter Tabuns): That's why I picked up the gavel.

Mr. Randy Hillier: That's what I thought.

The Chair (Mr. Peter Tabuns): I don't usually wave it around.

Mr. Randy Hillier: I just wanted to add: At the last committee meeting I did ask about defining regulatory steps and quantifying them. I'm wondering—we had a brief discussion about that—is research working on that to provide some commentary back or—

The Chair (Mr. Peter Tabuns): Research?

Ms. Karen Hindle: The research service has been working with the legislative library in order to compile the information that you've requested. At this point, it appears that most other provinces define the term "regulation" under their equivalent of the Legislation Act in a similar way that we do. However, in order to address the component of your question that deals with regulatory steps, we're going to need some additional time in order to put together the information, but it is our intention to provide the committee with a memo or a project outlining the information that we've gathered.

Mr. Randy Hillier: Thank you very much.

The Chair (Mr. Peter Tabuns): Thank you. Adjourned.

The committee adjourned at 0936.

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ISSN 1180-4319

Legislative Assembly of Ontario

Second Session, 40th Parliament

Assemblée législative de l'Ontario

Deuxième session, 40e législature

Official Report of Debates (Hansard)

Wednesday 5 June 2013

Journal des débats (Hansard)

Mercredi 5 juin 2013

Standing Committee on Regulations and Private Bills

Comité permanent des règlements et des projets de loi d'intérêt privé

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Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario

Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 5 June 2013

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Mercredi 5 juin 2013

The committee met at 0901 in committee room 1.

The Vice-Chair (Mr. John Vanthof): Good morning. Will the Standing Committee on Regulations and Private Bills come to order.

The items on the agenda are as follows: Bill Pr17, An Act to revive Triple "D" Holdings Ltd; Bill Pr10, An Act to revive Marsh & Co. Hospitality Realty Inc.; and a briefing from legislative research. We've made one change to the agenda. We'd like to switch the bills due to some traffic problems.

MARSH & CO. HOSPITALITY REALTY INC. ACT, 2013

Consideration of the following bill:

Bill Pr10, An Act to revive Marsh & Co. Hospitality Realty Inc.

The Vice-Chair (Mr. John Vanthof): We'd now like to proceed to the first item of business on the agenda, which is Bill Pr10, An Act to revive Marsh & Co. Hospitality Inc. Ms. Jaczek is the sponsor of the bill; however, Mr. Crack—good morning—is here on her behalf.

Would Mr. Crack and the applicant please come forward? Have a seat, folks. I'd ask the applicant to introduce himself for the purposes of Hansard.

Mr. Garry Marsh: Garry Marsh.

The Vice-Chair (Mr. John Vanthof): Thank you.

Mr. Crack, do you have any comments on behalf of Ms. Jaczek?

Mr. Grant Crack: Thank you very much, Chair. I would just like to say it's a pretty straightforward request, and the government is supportive of this particular piece of legislation.

The Vice-Chair (Mr. John Vanthof): Thank you. Does the applicant have any comments?

Mr. John O'Sullivan: If I may speak on behalf of the applicant: My name is John O'Sullivan. I am the legal counsel for Mr. Marsh in this matter and for the corporation, and we don't believe there's anything to add to the application material which has been filed before you. As you're aware from that material, the situation is that Marsh & Co. Hospitality Realty Inc. is a corporation that was engaged in the real estate business as a brokerage. It became involved in a lawsuit as a defendant sometime after 1999, when this action was commenced. Ultimately, it dissolved in 2006 in the belief that the litigation had been concluded. It was dissolved in 2009, I'm sorry. Thereafter, it became revived, and upon its revival, the professional insurer for Marsh & Co., declined to continue to conduct a defence on the ground that it had become dissolved. So Marsh & Co.'s choice is either to force the insurer to defend through litigation or else to apply to the committee for reinstatement of the corporation. The insurer is onside and is ready to resume the defence of the corporation as soon as it is revived but takes the position that it can't defend the company until it's revived. That's why we come before you today: to ask for the revival.

The Vice-Chair (Mr. John Vanthof): Thank you.

Are there any interested parties in the room who would like to speak to this matter? Seeing none, are there any comments from the government?

Mr. Grant Crack: No. I already stated our position. It's fine.

The Vice-Chair (Mr. John Vanthof): Thank you very much. Any questions from committee members? Seeing none, are the members ready to vote?

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

Okay, thank you.

Mr. John O'Sullivan: Many thanks.

TRIPLE "D" HOLDINGS LTD. ACT, 2013

Consideration of the following bill:

Bill Pr17, An Act to revive Triple "D" Holdings Ltd.

The Vice-Chair (Mr. John Vanthof): We'll now proceed to our second item of business on the agenda. The item is Bill Pr17, An Act to revive Triple "D" Holdings Ltd. Mr. Colle will be sponsoring the bill.

Mr. Grant Crack: I'm here for Mr. Colle.

The Vice-Chair (Mr. John Vanthof): Okay, Mr. Crack will be representing Mr. Colle.

Would the applicant please come forward. I'd like to ask the applicant to introduce herself for the purposes of Hansard.

Ms. Cynthia Samu: My name is Cynthia Samu.

The Vice-Chair (Mr. John Vanthof): Thank you. Does the sponsor, Mr. Crack, have any comments?

Mr. Grant Crack: Once again, thank you, Chair. Again a straightforward bill, and the government is supportive of the legislation to move to the House for passage.

The Vice-Chair (Mr. John Vanthof): Does the applicant have any comments?

Ms. Cynthia Samu: No.

The Vice-Chair (Mr. John Vanthof): Are there any interested parties in the room who would like to speak to this matter?

Seeing none, any further comments from the government? Seeing none, any questions from committee members? Seeing none, are the members ready to vote?

Bill Pr17, An Act to revive Triple "D" Holdings Ltd.: Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

Done. Thank you.

Ms. Cynthia Samu: Thank you.

DRAFT REPORT ON REGULATIONS

The Vice-Chair (Mr. John Vanthof): The third item on our agenda would be a briefing by Karen Hindle from the legislative branch.

Ms. Karen Hindle: Good morning, members. I expect that you would have received three memos through the Clerk earlier this week which address three different regulations that the committee discussed when it was looking at the final report on regulations made in 2011.

Specifically, at the back of the report, we had discussed regulations which had been reported in previous years but where action had or had not been taken on them. In this case, there were three regulations where no action had been taken, and the committee had asked me to go back and to look at the ministry's position on those regulations and report back to committee members on the ministry's position and whether or not I felt that it was valid.

What I propose to do is to go through each of the regulations in order, and perhaps if members have any questions on that particular regulation, we will discuss it before moving on to the next. In each case, in your package, you will find a memo that was prepared by me, as well as, attached at the back, correspondence between the committee or its counsel and ministry counsel, so the going back and forth with respect to each of these regulations.

The first regulation that I thought we would deal with is Ontario regulation 273/08, which is under the Child and Family Services Act. This regulation amends Ontario regulation 464/07, which is the adoption information disclosure regulation. This particular regulation addresses circumstances where an individual who has been adopted or given up for adoption or perhaps a birth parent or another person interested in adoption records is—the circumstances under which those individuals can seek information through the records.

0910

Now, the regulation, as we discussed a couple of weeks ago, includes a particular provision which seems to suggest that this regulation overrides any notice or disclosure veto in the Vital Statistics Act. As you can see on page 2 of the memo, the section at issue is section 2.1(2), "Any disclosure of information relating to adoptions authorized under this regulation applies despite any notice or disclosure veto in effect under section 48.3, 48.4 or 48.5 of the Vital Statistics Act that may prevent or affect disclosure of information relating to adoptions under that act."

Those particular provisions in the Vital Statistics Act deal with circumstances where an individual has said that they don't want their information disclosed. If members remember, it was an issue a few years back when the issue of disclosure vetoes and notices were discussed in the Legislature.

Now, the counsel for the committee originally wrote to the ministry asking for clarification on this particular section because it appeared that there wasn't sufficient statutory authority to allow a regulation to override provisions in the Vital Statistics Act. The counsel for the ministry wrote back and said, in effect, that it wasn't creating an override because the regulation at issue, which is 464/07, doesn't apply to the Vital Statistics Act.

Now here's the difficulty or the rub—and I think part of the reason why it was reported in the first place is that it's not entirely clear, but there are in fact two disclosure regimes in Ontario. The first one is under the Vital Statistics Act, and that deals with what they call "identifying information." That would be any kind of information that would lead someone to be able to deduce the identity of that person, for instance, a birth mother. That would include things like the person's name, information about the time and date when a baby was born—anything that would, either on its own or together, allow somebody to be able to figure out the identity of someone.

That falls under the Vital Statistics Act, and the disclosure vetoes that I was speaking about only apply to identifying information; in other words, information that falls under the jurisdiction of the Vital Statistics Act.

Now, in comparison, Ontario regulation 464/07 only deals with what they call "non-identifying information," and non-identifying information—you can see on page 4 of my memo—is listed. Non-identifying information is defined as information that would not lead somebody to be able to figure out who someone is. They provide examples in the regulation, so this might be the date of the adoption, the name of the children's aid society that

was responsible for the adoption, background information or medical information on the families.

What the ministry has in fact said is that the particular regulation that is at issue here is not changing the law or creating an override because the disclosure vetoes that fall under the Vital Statistics Act are a completely separate regime than the regime that is considered under 464/07.

Now I know that it's a bit confusing, because I found it quite confusing. It actually took me quite some time to figure out exactly what it was that ministry counsel were in fact getting at, because not only is it different information, but different ministries are responsible depending on what kind of information somebody is seeking.

All told, the committee, when it originally reported on this regulation, agreed that the statutory authority issue didn't necessarily apply in this case, but that it was nonetheless very confusing. I would agree with that.

I think that the difficulty with a regulation such as 464/07 is that this isn't something like a regulation under the Education Act that calculates amounts that are going to be paid to school boards, or a regulation under the Electricity Act that allows companies to be able to determine how much electricity is going to cost in a given year. This is a regulation that an individual who might be interested in seeking adoption disclosure might reference, so somebody who doesn't necessarily have a legal background or an understanding of exactly how the different regimes work.

The difficulty is that with the regulation—the way that it's worded, somebody is going to have a very difficult time understanding exactly what the ministry is getting at, and trying to figure out, "Well, why are they referring to disclosure vetoes? Does that mean that if it wasn't for this regulation, that there could be disclosure vetoes over non-identifying information?"

When we had spoken about the regulation a couple of weeks ago, you had asked for my opinion on whether or not I felt that the ministry's position was valid. I do feel that, having sort of gone through the process of trying to figure out exactly how this all works, the regulation issue is confusing, despite the ministry's assertions otherwise, and that it is something that they could potentially address to make it easier for the average Ontarian who is interested in adoption disclosure issues to be able to read and understand. So there is potential language that they could incorporate that references the fact that the Vital Statistics Act only deals with identifying information, for example. But we would leave that up to legal counsel at the ministry to discuss whether or not the particular regulation at issue should be amended.

In my view, I would recommend to the committee that it write back to the ministry and say, "Several years have passed now. Would the ministry reconsider its position on this particular section?" Or the other option would be—and perhaps the Clerk can provide you with more information, if necessary—you can also invite ministry officials to come in and perhaps give you more information as to why they feel that this particular provision is not imprecise or confusing.

The Vice-Chair (Mr. John Vanthof): Any questions? Verifications? Seeing none—

Mr. Randy Hillier: There are a couple of suggestions on the floor. It ends up that the regulation is lawful, it meets all the requirements, although it could be worded in somewhat clearer language. The ministry's aware of the concerns—

Ms. Karen Hindle: Yes. I believe that this is our regulation from 2008, so it would have been reported about three years ago.

Mr. Randy Hillier: I would suggest that we just leave it at that, then.

The Vice-Chair (Mr. John Vanthof): Everyone agree with that suggestion?

Mr. Monte Kwinter: I agree with that.

The Vice-Chair (Mr. John Vanthof): Okay. The next regulation is—

Ms. Karen Hindle: All right. The next regulation is Ontario regulation 338/09, which was made under the Nutrient Management Act, 2002, which amends a general regulation under that act.

Now this is a similar situation in that the language of the regulation is not clear, and the committee had asked for the ministry to amend the legislation so that the language would make clear the fact that this is not an exemption.

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This particular regulation, among other things, addresses the storage and use of NASM, which are non-agricultural source materials. Non-agricultural source materials do not include compost or fertilizer, but rather include other kinds of non-agricultural materials that are used on farms.

On page 2, I provide some examples. There's pulp and paper biosolids, sewage biosolids, anaerobic digestion output and other materials.

In part, I think, due to the nature of these materials, there are some environmental concerns associated with their use. Generally, the Environmental Protection Act requires that anybody who is using what they would call waste would generally have to comply with part 5 of the Environmental Protection Act.

In this particular case, the Environmental Protection Act suggests that certain materials—it's the act plus the regulation that falls under the Environmental Protection Act that suggests that there are certain instances in which particular kinds of materials might be exempt from the requirement in the Environmental Protection Act.

The provision at issue in this case is section 8.3(1) of Ontario regulation 267/03, and you can find it on page 2 of my memo. It reads:

"A NASM plan area that satisfies the following requirements is exempt from part 5 of the Environmental Protection Act and from regulation 347 of the Revised Regulations of Ontario ... (General—Waste Manage-

ment) made under that act." And then there are certain conditions that follow along with this.

The concern arises due to the part of the phrase that says "is exempt from." Originally, counsel had written to the ministry to suggest that there wasn't sufficient statutory authority under their parent act, which is the Nutrient Management Act, to provide for an exception under the Environmental Protection Act.

The ministry wrote back and said: "Well, actually, the exemption falls under the Environmental Protection Act, not under the Nutrient Management Act."

In order to fully understand how this works, one has to read the Environmental Protection Act and its regulation, as well as the Nutrient Management Act and its regulation.

In this case, the concern that was raised is the phrase "is exempt from." It seems to suggest that, in and of itself, this particular regulation is creating an exception. So there are ways in which the ministry could reword it so that it would make it clear that the exemption and the statutory authority for that exemption falls under the Environmental Protection Act. That was the reason why the regulation was reported in the first place. This is similar to the previous regulation in that the issue is clarity of language, not statutory authority itself.

The Vice-Chair (Mr. John Vanthof): Any questions? Any suggestions?

Mr. Randy Hillier: A suggestion: Make all laws so that we only need to read one act to understand the law.

The Vice-Chair (Mr. John Vanthof): Any workable suggestions?

Interjection.

The Vice-Chair (Mr. John Vanthof): How about we go to the next—

Ms. Karen Hindle: In this case, my suggestion would be similar to that of the one with respect to adoption disclosure. There are several options available to the committee.

One is that the regulation has already been reported. It was reported, I believe, a couple of years ago, so the committee can just leave it at that; it could re-write the ministry and say that it remains concerned that, as worded, it seems to create an exemption where none exists, and therefore they should reword the language to make it clear that the exemption actually arises under the Environmental Protection Act; or the committee could invite ministry officials in, in order to speak to the issue further.

Mr. Randy Hillier: I would suggest we just leave it as is.

The Vice-Chair (Mr. John Vanthof): Any agreement with that? Agreed.

Ms. Karen Hindle: The final regulation that I was asked to look at is Ontario regulation 451/10 under the Pharmacy Act, which amends the general regulation under this act.

Committee members might remember this particular regulation in that we discussed it a couple of weeks ago. This is the one where the Ontario College of Pharmacists regulates the registration of members. In this particular case, as committee members might remember, the regulation provides that an individual who has been suspended and has ultimately lost registration due to failure to pay fees, then attempts to apply for reinstatement with the College of Pharmacists—the provision at issue provides that an individual who has not only been convicted of a criminal offence but is subject to a criminal proceeding, or somebody who might have gone through a criminal proceeding but has been found not guilty, is automatically excluded from the ability to apply for reinstatement.

Originally, the committee raised the issue, did this offend the charter—in particular, section 11(d), which provides for the presumption of innocence.

The ministry's position on this particular regulation changed over time. When it originally wrote to counsel before the regulation was reported to the committee, the ministry argued that it did not violate section 11(d) because a member who had previously been a member of the College of Pharmacists, even if they could not seek reinstatement, could apply as a new member—in effect, go through the process that anybody who was seeking to be a pharmacist could go through and reapply for membership. The committee did not agree with that particular argument and it reported the regulation in its report later that year. I believe that the committee asked the ministry for a response.

The ministry wrote back following the report and argued that section 11(d) of the charter did not in fact apply. The reason why it did not apply is that case law around section 11(d) makes it clear that it only applies—the protections in section 11(d)—to individuals undergoing criminal proceedings and that it does not apply to disciplinary hearings, unless there is what they call a true penal consequence—in other words, somebody is facing jail or some kind of punishment that is tantamount to a penal consequence.

I went back and I looked at the ministry's position. I looked at some of the case law surrounding 11(d) and in the end, I believe that the ministry is right. It is clear that the charter does apply to organizations such as the Ontario College of Pharmacists and, in particular, any regulations that it makes. However, you have to go beyond just the issue of whether the charter applies to then look at whether or not the particular section in the charter applies. In this case, I believe that the ministry is right: The courts have made it very clear that section 11(d) rarely would apply to any kind of tribunal hearing or disciplinary hearing, in large part because they don't impose any kind of penal consequence—in other words, jail time. There are exceptions to that, but in general, that seems to be the case.

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There have been individuals who have attempted to argue that section 11(d) should apply, for instance, to the decision of a particular tribunal to withdraw somebody's licence, and the courts have held that the protections in

section 11(d) do not apply. Therefore, by extension, I think the ministry is right—that because section 11(d) doesn't apply to the decision to remove someone's licence, it also would not apply to the decision to allow somebody to get their licence reinstated.

The difficulty here is that section 11(d) doesn't apply, and it appears that there is nothing wrong with respect to the regulation in terms of violating the standing orders. The committee is sort of stuck. There is very little, if anything, that the committee can do to rectify it. The committee could ask ministry officials and the College of Pharmacists to come in and provide it with a greater debriefing. However, ultimately, this is a policy choice that was made by the College of Pharmacists, and the committee is unable to require or even to recommend, I believe, that they change their policy.

The Vice-Chair (Mr. John Vanthof): Any questions? Mr. Kwinter.

Mr. Monte Kwinter: I just have a comment. I remember during the discussion that the concern that I had was that if someone had been suspended or whatever it was, and if they wanted to reapply, they had to pay up all of their arrears, but there was no guarantee that, once they did, they were going to be accepted anyway. I thought, why would anyone go to that risk of having to pay all of that money, and then they say, "Too bad; we're not going to reinstate it anyway"? That was the issue that I found disturbing. But as you say, it's now a matter where we don't have any jurisdiction over it anyway. It would seem to me that we have to accept that.

Ms. Karen Hindle: Well, Mr. Kwinter, the regulation that you're speaking of—you're right that we had discussed that there was a concern associated with the fact that the college required that members, in order to apply for reinstatement, would have to pay back all of their fees, but that's a different regulation than the one that we're discussing. That was with the College of Chiropractors.

I believe—and I would have to go back into the report—that the committee decided to write back to the ministry in that particular case, suggesting that they reword the language so that it would be made very clear to applicants that this is a risk that you are taking, that it is possible when you apply, you could lose all of your money, all of the fees and penalties that you had paid, if the College of Chiropractors decides that they won't allow you to be reinstated; whereas in this case, it's dealing with whether or not somebody who is subject to any kind of criminal proceeding or drug proceeding can apply for reinstatement at the College of Pharmacists.

Tamara, I don't know if—

The Clerk of the Committee (Ms. Tamara Pomanski): I have my report. What reg is it?

Ms. Karen Hindle: I would have to find it.

Mr. Randy Hillier: Then maybe I'll just make a comment, that this is what it says: A former member is ineligible for reinstatement if there are any criminal charges. They may have been caught with a DUI or whatever. It's not a maybe; they're ineligible, period—

Ms. Karen Hindle: Yes.

Mr. Randy Hillier: —which, although it might not be considered penal, taking away somebody's livelihood, I would think that that's a pretty significant penalty.

Ms. Karen Hindle: And that has been the position that has been taken by some individuals when faced with this kind of situation.

Nobody has challenged this particular regulation. However, there are circumstances in which somebody has argued that section 11(d) should apply in the event that, say, for instance, a police officer is subject to disciplinary proceedings under the Police Services Act; or someone might lose their licence under one of the colleges, and the argument is, "Well, I'm losing my livelihood, my ability to feed myself and my family. That seems to me to be a pretty big consequence." Unfortunately, the courts have said that that is not penal. It is serious and significant, but it still doesn't engage section 11(d).

Mr. Randy Hillier: I don't know; I still find it—the former member is ineligible. There's no wiggle room here. It's not "may be" ineligible; it's "is" ineligible.

Ms. Karen Hindle: Yes, you're right.

Mr. Randy Hillier: And for any criminal offence in any jurisdiction. Those are some pretty broad strokes. I think that is contrary to what any thoughtful person would suggest is reasonable, that anybody accused of any criminal offence in any jurisdiction is ineligible to be a pharmacist again.

Ms. Karen Hindle: Well, I guess you're right, and somebody who is found not guilty would still be ineligible under this particular provision. But I think the ministry would take the view that they cannot apply for a reinstatement through that expedited process, but they can submit an application as if they are a brand-new person seeking a pharmacy licence. That option is still available. It's much more cumbersome, and obviously there's no guarantee that someone would be admitted on the basis of that application, but that option is still open to them.

Oh, and Mr. Kwinter, I just want to follow up on your comment. The one that you were referring to is Ontario regulation 137/11, under the Chiropractic Act. That is one that we are reporting in the 2011 regulations report. A letter will be going out to the ministry to ask them for further information and clarification on that particular regulation.

Mr. Monte Kwinter: Thank you.

The Vice-Chair (Mr. John Vanthof): Any further discussion on this subject? Your advice was to leave it as is?

Ms. Karen Hindle: Yes. I guess the only option would be—I think, unfortunately, there is very little that the committee can do at this stage. The only option that might be open to the committee is to invite ministry officials in to meet with the committee and to ask them

some additional questions and maybe seek some further clarification. I think that the committee's mandate with respect to this regulation is pretty limited.

The Vice-Chair (Mr. John Vanthof): What would be the advice of the committee?

Mr. Grant Crack: Just leave it.

The Vice-Chair (Mr. John Vanthof): Leave it?

Mr. Grant Crack: Leave it as it is. That's our recommendation.

The Vice-Chair (Mr. John Vanthof): All in agreement? Okay. That would end our formal agenda.

Is there any new business to discuss? Seeing none, the meeting is now adjourned.

The committee adjourned at 0939.

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ISSN 1180-4319

Legislative Assembly of Ontario

Second Session, 40th Parliament

Assemblée législative de l'Ontario

Deuxième session, 40e législature

Official Report of Debates (Hansard)

Wednesday 11 September 2013

Journal des débats (Hansard)

Mercredi 11 septembre 2013

Standing Committee on Regulations and Private Bills

Comité permanent des règlements et des projets de loi d'intérêt privé

Chair: Peter Tabuns
Clerk: Tamara Pomanski

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Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario

Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 11 September 2013

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Mercredi 11 septembre 2013

The committee met at 0930 in committee room 1.

APPOINTMENT OF SUBCOMMITTEE

The Chair (Mr. Peter Tabuns): The meeting is called to order. We have a motion that needs to be moved on appointment to the subcommittee. Ms. Damerla.

Ms. Dipika Damerla: Thank you, Chair. I move that a subcommittee on committee business be appointed to meet from time to time at the call of the Chair or at the request of any member thereof to consider and report to the committee on the business of the committee;

That the presence of all members of the subcommittee is necessary to constitute a meeting; and

That the subcommittee be composed of the following members: the Chair as Chair, Mr. Vanthof, Mr. Fraser and Mr. Hillier; and

That substitution be permitted on the subcommittee.

The Chair (Mr. Peter Tabuns): Ms. Damerla has moved a subcommittee motion. Any discussions or comment? Wonderful—unanimity. If none, I'll put the question: Shall the motion carry? Carried.

The motion is carried. Our business is done. I declare us adjourned.

The committee adjourned at 0931.

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STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

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Mr. Peter Tabuns (Toronto–Danforth ND)

Vice-Chair / Vice-Président
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ISSN 1180-4319

Legislative Assembly of Ontario

Second Session, 40th Parliament

Assemblée législative de l'Ontario

Deuxième session, 40e législature

Official Report of Debates (Hansard)

Wednesday 2 October 2013

Journal des débats (Hansard)

Mercredi 2 octobre 2013

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Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

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Wednesday 2 October 2013

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Mercredi 2 octobre 2013

The committee met at 0902 in committee room 1.

The Chair (Mr. Peter Tabuns): Good morning. Will the Standing Committee on Regulations and Private Bills come to order?

The items on the agenda are as follows:

—Bill Pr18, An Act to revive Kingsgate II Limited;

—Bill Pr19, An Act to revive Kingsgate III Limited;

—Bill Pr20, An Act to revive Kingsgate IV Limited;

—Bill Pr21, An Act to revive Westmount Ridge Associates Limited;

—Bill Pr15, An Act respecting the Ontario Institute of Professional Agrologists;

—Bill Pr24, An Act to revive Senchura Holdings Ltd.

SENCHURA HOLDINGS LTD. ACT, 2013

Consideration of the following bill:

Bill Pr24, An Act to revive Senchura Holdings, Ltd.

The Chair (Mr. Peter Tabuns): Members of the committee, the applicant for the Kingsgate bills is going to be a few minutes late. I suggest we start with An Act to revive Senchura Holdings Ltd. No objections?

Would the applicant introduce himself for the purposes of Hansard?

Mr. Ronald Reim: Yes, good morning. My name is Ronald Reim. I'm a solicitor. I'm here with the applicant, Mr. Fred Berofsky.

The Chair (Mr. Peter Tabuns): Does the sponsor, Mr. Prue, have any comments?

Mr. Michael Prue: Yes, my very brief comment: I would ask that the committee favourably consider this bill. It is a relatively routine matter and will allow business to commence on a property in Beaches–East York.

The Chair (Mr. Peter Tabuns): Okay. Does the applicant have any comments?

Mr. Ronald Reim: No, there are no comments, sir.

The Chair (Mr. Peter Tabuns): Okay. Are there any interested parties in this room who want to speak to the matter?

Are there any comments from the government?

Any comments from any other committee members?

Are the members ready to vote? Great.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

Done. Thank you.

ONTARIO INSTITUTE OF PROFESSIONAL AGROLOGISTS ACT, 2013

Consideration of the following bill:

Bill Pr15, An Act respecting the Ontario Institute of Professional Agrologists

The Chair (Mr. Peter Tabuns): Colleagues, in light of the fact that the proponents for Kingsgate are still not here, I propose we move on to Bill Pr15, An Act respecting the Ontario Institute of Professional Agrologists. Mr. Hardeman will be sponsoring this bill. Would Mr. Hardeman and the applicant please come forward? I would ask the applicant to introduce himself for the purposes of Hansard.

Mr. Terry Kingsmill: Good morning. My name is Terry Kingsmill. I am registrar of the Ontario Institute of Agrologists.

The Chair (Mr. Peter Tabuns): Do you, Mr. Hardeman, have any comments on this?

Mr. Ernie Hardeman: Yes, Mr. Chairman. I am introducing this bill on behalf of the Ontario Institute of Agrologists, and I am pleased to be sponsoring this bill. It will legislate that only members of the Ontario Institute of Agrologists in good standing can use the "professional agrologist" designation.

This bill will only impact those wishing to use the title of professional agrologist. It will not in any way limit the ability of others in the sector to continue to practise, and I think it's very important that I put that on the record, Mr. Chairman.

The Chair (Mr. Peter Tabuns): Does the sponsor have any comments?

Mr. Terry Kingsmill: Yes. Mr. Chair and members of the standing committee, thank you for the opportunity to speak in support of Bill Pr15, An Act respecting the Ontario Institute of Professional Agrologists. I wish to begin by stating an appreciation for the comments, support and insights from all across the agrology sector: from those in government and multiple ministry jurisdictions, from business and academia, Mr. Hardeman, of

course, for his support, and all who served as part of our stakeholder consultation process in the preparation of this bill.

For over 50 years, the OIA mission has been to protect the public by registering and certifying the competence of those practitioners who are qualified within the jurisdiction of the act and contribute toward building consumer confidence in Ontario's agriculture, agri-food and agri-environmental sector. Through this bill, the Ontario Institute of Agrologists seeks to better advance the proficiency of its registered and certified member-practitioners serving society.

How do they do this? Through enhanced member adherence to the new national standards of practice: rigorous competency and educational requirements to join the OIA, ongoing continuous learning and competency enhancement, member utilization of sound scientific methods and principles, as well as accountability to the consumer. Specifically, the intent is that it only applies to those who meet national entry criteria and voluntarily choose to be registered and certified members of the Ontario Institute of Agrologists.

It is identified in the bill, in the clearest possible language, that this bill does not affect, restrict or interfere with any right of any person who is not a member of the institute to practise. There is no mandatory element or wording that makes certification, licensure or designation mandatory in the province of Ontario through this bill.

Second of all, the bill will not serve to add to the legislation on the books in Ontario. This book serves to repeal and replace the Ontario Professional Agrologists Act, 1960, an old and out-dated act that challenges the OIA to enhance the qualifications of its registered member and even builds membership predicated on those with a degree in agriculture from the Ontario Agricultural College granted by the University of Toronto.

Today, the work of OIA-certified practitioner members goes beyond traditional agriculture, beyond crops-input supply businesses, feed mill operations or providing advice to farmers. Over the past 50 years since our 1960 act was passed, a number of changes have occurred in the agrologist members' traditional specialized space, specifically in areas of evolving consumer interest such as resource stewardship and food quality assurance, where OIA members do provide scientifically sound services and competency-based expertise.

The bill also responds to the need to formalize the "technical agrologist" designation to provide an entry to certification for today's college graduates.

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We seek to build on over 40 years of being in existence and, through the bill, be able to better demonstrate an industry-driven commitment to ongoing professional development and training. As a result, this act will recognize the training and expertise of Ontario's professional and technical agrologists and will help our agriculture industry by ensuring that anyone using a protected title meets national competency requirements.

In particular, we wanted to make sure that this bill did not impede on the membership of any other agricultural-based organization. In fact, OIA members and their employers are often joint members with other ag organizations and businesses as well as corporate sponsors of many different ag organizations.

Quite simply, it is undeniable that individuals and the companies that employ them recognize the importance of designated OIA members in practice and demonstrate a clear industry need, support for and value in OIA certification and registration. This bill serves to articulate broad stakeholder support for certified agrologists in all areas of practice. It contains a provision reserving certain designations and titles for the exclusive use of members of the OIA.

The bill does not make it an offence to call yourself, let's say, a professional agronomist or a professional fertilizer applicator, as examples. However, this bill does make it an offence for unauthorized persons to use the cited designations and, of course, company titles as a means to deceive the public by holding out that they are certified members of the institute. The OIA, through this bill, would have the authority to pursue a legal avenue against those who misrepresent themselves as a registered or certified member.

Simply, this bill seeks to help our agriculture and agrology sectors by ensuring that anyone using a nationally recognized title meets national standards of qualification assurance, can achieve labour mobility and is completing ongoing education. To be clear, there is nothing written or implied in this bill that would make it mandatory for an OIA certified member to perform any service or function.

Members of the standing committee, you should know that, in Canada, each province has an agrology institute and an agrology act. Historically, each provincial Legislature has passed and revised its act as deemed appropriate. It is an important element of our legislative system that an avenue for private bills exists whereby private legislation initiated by an organization such as the OIA, if passed by the Legislative Assembly, would provide the legislative sanction that cannot be obtained under general law.

On behalf of the OIA's board of directors and the approximately 600 members of the Ontario Institute of Professional Agrologists, I appreciate your consideration of the merits of Bill Pr15. Thank you.

The Chair (Mr. Peter Tabuns): Thank you very much. Are there any interested parties in this room who want to speak to this matter? If you would come forward, sir, and introduce yourself. I should have said you have up to five minutes to speak.

Mr. Dave Buttenham: My name is Dave Buttenham, CEO, with the Ontario Agri Business Association. I would like to thank you for the opportunity to make this submission to the Standing Committee on Regulations and Private Bills as it relates to Pr15, An Act respecting the Ontario Institute of Professional Agrologists.

As mentioned earlier, my name is Dave Buttenham. I'm CEO for Ontario Agri Business Association, a voluntary not-for-profit trade association that represents the collective interests of crop input supply businesses, country grain elevators, feed mills and allied businesses operating out of some 509 locations across the province of Ontario. Member firms of OABA provide essential products and services to Ontario's 57,000 farmers and are committed to serving the needs of this important segment of the Ontario economy. A number of those services are provided by professional staff members, including nutritionists, agronomists, and feed and crop technical sales staff.

In order to effectively serve the needs of the agri-food value chain, it is imperative that agribusinesses employ staff at all levels who are knowledgeable, well-trained and professional in their specific duties and responsibilities related to crop production, livestock and poultry production and grain and oilseed handling and merchandising. Throughout Ontario, the agribusiness sector employs competent staff who work closely with all segments of production agriculture to maximize plant and animal production with a direct emphasis on food safety, food quality and environmental sustainability. In addition to formal education accreditation, OABA is a strong supporter of the certified crop adviser, the certified crop science consultant, certified animal health representative programs and other professional organizations.

Since 1960, OABA acknowledges that the Ontario Institute of Agrologists has been authorized to issue the title of "professional agrologist" to qualified persons in Ontario. It should be noted that, over the past 30 years, there have been several unsuccessful attempts by OIA to pursue mandatory right-to-practise legislation that would regulate agrologists and the practice of agrology in Ontario. Over this period of time, OABA has been consistent in its opposition to the mandatory nature of OIA right-to-practise regulatory proposals.

There has been considerable change in the agri-food sector since 1960, and OABA appreciates the current challenges OIA is facing as a membership organization. During a meeting with OIA on April 3, 2013, OABA was advised that the primary reason for pursuing passage of this bill is to ensure that only OIA members use the PAg designation. To achieve this objective, it is respectfully submitted that there are alternative approaches available to OIA that could potentially yield the same results and do not include the creation of a specific act. Bill Pr15 is clearly focused on the operational and governance needs specific to OIA and does not establish any broader benefits to stakeholders in the agri-food industry or to the citizens of Ontario.

OABA would submit that professional and technical staff operating in the agri-food sector should be free to choose which professional organization and accreditation best meets their needs, the needs of their employer and, most importantly, the needs of the customers. OABA agrees with the Canadian Certified Crop Advisor Association that there is no basis to support the position that individuals who hold a generalized professional agrologist designation are better educated or more knowledgeable in providing services in the agribusiness sector than those who choose to belong to a different professional organization representing their specific area of focus or expertise.

While the Ontario Agri Business Association does not oppose the efforts of OIA to improve its organizational effectiveness and governance through this private bill, OABA continues to have concern with the potential that passage of this private bill could serve as a conduit for OIA to revisit its pursuit of right-to-practise legislation or mandatory membership, and that is something that OABA will simply not support. Thank you very much.

The Chair (Mr. Peter Tabuns): Thank you. Any other interested parties who'd like to speak?

Sir, you have up to five minutes, and please introduce yourself first.

Mr. Clare Kinlin: Thank you. My name is Clare Kinlin. I'm currently the vice-chair of the Canadian Certified Crop Advisor Association. I am a certified crop adviser, employed by MacEwen Agricentre located in eastern Ontario. Thank you for the opportunity to make a presentation to the standing committee regarding the bill, An Act respecting the Ontario Institute of Professional Agrologists.

The CCA program is a voluntary program, administrated locally in 38 jurisdictions throughout Canada and the United States. There are programs in India, Mexico and Argentina and new programs set to launch in seven more countries. There are currently 13,327 active CCAs, and there are over 500 CCAs in Ontario. Our association oversees the program. The CCA board of directors consists of representatives from both federal and provincial governments, agricultural research, agribusiness and practising CCAs.

In order to become a CCA, individuals must meet certain standards which include exams to demonstrate the command of science and principles involved in crop production, experience minimums and demonstration of the ability to apply the knowledge they possess, and continuing education to ensure they keep current on research and practical application.

Since the 1960s, the OIA has been authorized to issue the title of "professional agrologist" or PAg to qualified persons in Ontario. We understand from OIA that they face challenges ensuring that only their members use the title, and that is the reason they are pursuing the passing of this bill. However, we are unclear how this bill will assist them in enforcing the use of the PAg designation. There are other approaches, such as incorporating as a non-profit, which would achieve the same results.

0920

Our association is opposed to any kind of legislation that would lead to right-to-practise regulations and mandatory membership in OIA or any other associations, either now or in the future. That is our main concern with this bill: the potential of regulations to be added or

amendments made that would require an agronomist to become a PAg.

We believe that agronomists should be free to choose what professional organization and accreditation best meet their needs, the needs of their employer and, most importantly, the needs of their customers. The ag industry has changed, and we are highly specialized for our customers.

There are already professional organizations with specific areas of practice; for example, engineers and veterinarians. In Ontario, there are also certified crop advisor programs, certified science consultant programs and certified animal health representative programs. In addition, the agri-business sector has developed the designation of "professional applicator" to identify those individuals who have a combination of experience and knowledge in the application of crop protection products and fertilizers.

There is no basis to support the position that individuals who hold a generalized professional agrologist designation are better educated or more knowledgeable in agronomy than those who choose to belong to a different professional organization representing their specific areas of focus.

In summary, the Certified Crop Advisor Association does not oppose the OIA attempting to better monitor its members, but we are concerned should the act lead to right-to-practise regulations or mandatory membership in OIA or any other organization in the future.

The Chair (Mr. Peter Tabuns): Thank you, sir. Are there any comments from the government? Mr. Kwinter.

Mr. Monte Kwinter: Mr. Chair, we've already heard from OABA and the CCA, and the professional agrologist title is clearly focused on the operational and governance needs specific to OIA and does not establish any broader benefits to stakeholders in Ontario's agri-food industry or the citizens of Ontario. It will lead to an increase in red tape, and by making them a regulated profession, businesses would then be required to use licensed agrologists. This could add to the cost and regulatory burden for normal farm business. The government is committed to reducing regulatory burdens faced by businesses, and the Ontario Ministry of Agriculture and Food has consistently advised against the regulation of the agrology profession.

The Chair (Mr. Peter Tabuns): Are there any other comments from government on this matter? There are none?

Other members of the committee?

Mr. Bill Walker: Just a point of clarification: My understanding is that, if you use something like a veterinarian, this gives a designation and allows the OIA to then have some teeth if they're using it inappropriately. It's to have some teeth in it; that's what I was led to believe when we were having a discussion on this. I struggle with why this isn't a good thing or why it's not consistent with all the other practices out there. If either of the two gentlemen could give me a bit more clarity, because other than your two documents that I've seen today, I haven't heard any opposing views. I'd like to understand that a little bit better.

Mr. Dave Buttenham: Our opposition is not to the use of PAg and the enforcement of that PAg designation for those who meet the accreditation. Our opposition to this is probably based on the fact that discussions have taken place with respect to mandatory right to practise, which would mean that only those individuals who hold a PAg designation could offer advice to production agriculture or to customers. That is our concern.

Most recently, in Ontario Farmer, which is a rural-based publication, yesterday the words "mandatory" and "right to practise" came up, and it was indicated not at this time. Our concern is that we do not want this piece of legislation to lead to the next step, which could, in fact, be mandatory right-to-practise legislation, because that is something that we adamantly do not feel is in the best interest of the industry.

Mr. Bill Walker: I think the other point of clarification would be to have a response from the other side. Again, I get what you're saying if that's where they're going. That certainly wasn't led to in the discussions I had, and the point is that right now someone can go out and say, "I am a PAg," and there's nothing they can do to enforce that and say, "You're not." There are people out there who would misuse and abuse that situation. So my sense would be that by allowing this designation—what they're asking for is there. If there's a second step, that needs to be discussed. I just want to make clear that that's kind of how I've been going down the road.

Mr. Dave Buttenham: I think we want that clarity that we're not pursuing that particular movement toward mandatory right-to-practise legislation. We have no opposition with the bill as it stands today, as long as that is the beginning and the end of where this stands.

Mr. Bill Walker: Chair, if I could ask you another point of clarification?

The Chair (Mr. Peter Tabuns): If you couldn't. I noticed Mr. Hardeman wants to respond as well. If you'll let him respond, and then you can make your—

Mr. Ernie Hardeman: Mr. Chairman, that's why I made my opening comments: I want to make it quite clear that, in sponsoring the bill, I don't disagree with the presentations that were made. But I think we should all remember the presentation that was made by the applicant, which says that the purpose of this bill is to prevent others from being able to us the Ag designation, not to change the Ag designation at all. It's strictly to restrict it so only the people who are registered with the institute, and members of the institute, can use the designation.

If I could just answer in the debate the question from the Ministry of Agriculture. This is not creating more and new regulation; it is just changing and putting a restriction in the existing legislation to prevent others from using the designation. This bill is drafted—and we spent a long time doing that draft—to accommodate the concerns that were expressed by the other organizations, that it isn't going in that direction. Because that's how they failed last time, and they realized that's not the thing.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hardeman. Mr. Walker, you have another question?

Mr. Bill Walker: Just two points of clarification. One I think Ernie has just answered, that it's not a creation of a new act. This is an update of a 1960 act. Fifty years have gone by. I think it's relatively expected that we would review it.

The other point is particularly for Mr. Buttenham. I'm a new legislator so maybe I stand to be corrected here. As I read it now, there's nothing changing allowing that right to practise. If they came with something like that, that would require further review, another debate, another whole context of discussion. My context right now is we're only talking about what's in the act, and I would be prepared currently to support that. If there was a change or an expectation, then that would have to come back through and have a fulsome debate.

Mr. Dave Buttenham: And I think the purpose is—

The Chair (Mr. Peter Tabuns): Okay.

Mr. Dave Buttenham: Oh, sorry.

The Chair (Mr. Peter Tabuns): Sorry, sir.

You made your statement. Was there information that you wanted?

Mr. Bill Walker: Yes. I would like Mr. Buttenham to just clarify his position to that.

Mr. Dave Buttenham: I think the purpose of us is to go on the record to say that we are opposed to mandatory right-to-practise legislation. At this particular point, we want to ensure that the House is fully aware that we are opposed to that, so that is the purpose of us appearing before committee this morning.

Mr. Bill Walker: Right, and not opposing the current—

Mr. Dave Buttenham: Not opposing the current private bill that stands before you.

Mr. Bill Walker: Thank you for that clarification.

The Chair (Mr. Peter Tabuns): Thank you. I'll take the proponent, and then I'm going to go to Mr. Vanthof. Sir.

Mr. Terry Kingsmill: Again, to clarify, there's no desire, there's no intent, this is not the time, this is not a slippery slope toward anything to deal with or discuss or require mandatory licensure. It is very clearly expressed that it will not restrict or interfere with anybody being able to do the doing.

The Chair (Mr. Peter Tabuns): Thank you. Mr. Vanthof.

Mr. John Vanthof: Thank you all for coming. Having read the documentation and looking over the past of this, from our position, we were looking at this as basically a housekeeping matter, a big housekeeping matter, mind you. I would really like to thank OABA and the crop advisor association for coming and bringing their point of view because it puts it on the record for everybody. Definitely from our corner, it's not perceived as the start of the slippery slope, and having you put that on the record will make it very clear for everyone. We can support the bill as it stands.

I've been a legislator for a short time, a farmer for a long time, and I think we have to be careful too that, on the ground, this isn't used as, "We're legislated and the other guys aren't." That will have some bad ramifications if that happens.

0930

The Chair (Mr. Peter Tabuns): Okay. Thank you, Mr. Vanthof. Are members ready to vote?

Shall section 1 carry? Carried.
Shall section 2 carry? Carried.
Shall section 3 carry? Carried.
Shall section 4 carry? Carried.
Shall section 5 carry? Carried.
Shall section 6 carry? Carried.
Shall section 7 carry? Carried.
Shall section 8 carry? Carried.
Shall section 9 carry? Carried.
Shall section 10 carry? Carried.
Shall section 11 carry? Carried.
Shall section 12 carry? Carried.
Shall section 13 carry? Carried.
Shall section 14 carry? Carried.
Shall section 15 carry? Carried.
Shall section 16 carry? Carried.
Shall the preamble carry? Carried.
Shall the title carry? Carried.
Shall the bill carry? Carried.
Shall I report the bill to the House? Carried.
Thank you. The bill is carried.

Thank you very much for attending this morning and presenting the case.

KINGSGATE II LIMITED ACT, 2013
KINGSGATE III LIMITED ACT, 2013
KINGSGATE IV LIMITED ACT, 2013
WESTMOUNT RIDGE ASSOCIATES LIMITED ACT, 2013

Consideration of the following bills:
Bill Pr18, An Act to revive Kingsgate II Limited;
Bill Pr19, An Act to revive Kingsgate III Limited;
Bill Pr20, An Act to revive Kingsgate IV Limited;
Bill Pr21, An Act to revive Westmount Ridge Associates Limited.

The Chair (Mr. Peter Tabuns): Now we go to consideration of the bills related to Kingsgate and Westmount Ridge Associates. Ms. Armstrong will be sponsoring the bill. Ms. Armstrong, you have come forward; the applicant, as well. I would ask the applicant to introduce himself for the purposes of Hansard.

Mr. Peter Quigley: Mr. Chairman, my name is Peter Quigley. I'm a lawyer, and I'm agent for Michael Arnsby, who is the principal and shareholder of Arnsby Property Management, one of London, Ontario's larger companies, and very reputable, who has brought this application in connection with four different companies that were voluntarily dissolved inadvertently.

The Chair (Mr. Peter Tabuns): Ms. Armstrong, do you have any comments?

Ms. Teresa J. Armstrong: Yes. Good morning, Chair. I'm here today to support these private bills, from 18 to 21. The bills have been proposed to revive the corporations. The corporation was voluntarily dissolved under the direction of their accountant at the time. The principals of the corporation were not aware that the corporation had been dissolved until they had entered into a contract to sell the property that had precipitated this application. So they're here now to revive the companies in order to sell that real property that originally they weren't aware was part of dissolving the corporations.

The Chair (Mr. Peter Tabuns): Mr. Quigley, you did make comments when you introduced yourself. Do you have anything more you want to say to the committee?

Mr. Peter Quigley: No. All I'll say is that there are four separate corporations, each of the corporations facing the same issue. Each of them had remnant properties that were still held by those corporations when they were, unfortunately, voluntarily wound up. We need to revive those corporations in order to dispose of those properties.

The Chair (Mr. Peter Tabuns): Are there any interested parties in the room who want to speak to this matter?

Are there any comments from the government?

From other committee members?

Mr. Bill Walker: Chair, just as part of my general education, being a new legislator, I find it interesting. Maybe the Clerk could just—how does somebody wind up a corporation without the board of directors being involved? In here somewhere, I read that the secretary, I believe, secretary-treasurer or someone, wound these corporations up. It's just a point of clarification.

The Chair (Mr. Peter Tabuns): Mr. Quigley, can you speak to that?

Mr. Peter Quigley: Well, the normal process would be that when a company is basically being wound up, you would file articles of dissolution. In this case, though—or sorry; that's if there are no assets and there are no creditors. Another way it can happen is if a company doesn't file its corporate returns, then the ministry can basically wind up the corporation. However, where a company files articles of dissolution and does it voluntarily, under section 244 of the Business Corporations Act, basically, if that is done on a voluntary basis, then it's not a matter of reviving it through a simpler procedure, which is filing articles of revival. You must actually go and get a bill passed, get an act of the Legislature passed, to revive a corporation.

Where there are assets in the corporation, which in each of these four cases there was, the legal effect is that the property escheats to the crown, so the crown becomes the owner of that property and the custodian of that property. It is reversible, but it is necessary to proceed the way we have, proceeding to four separate acts which will revive each of those corporations and put things back as they previously had been. That's how it happened, and that's why we're here this morning.

Mr. Bill Walker: Thank you.

The Chair (Mr. Peter Tabuns): Your questions are satisfied? Great.

Are members ready to vote? Okay.

Bill Pr18, An Act to revive Kingsgate II Limited:

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

Now, the next bill, the process is remarkably similar.

Ms. Armstrong, any further comments?

Ms. Teresa J. Armstrong: No, no further comments.

The Chair (Mr. Peter Tabuns): Mr. Quigley, you've introduced yourself. Do you have any further comments?

Mr. Peter Quigley: No. I just want to make a comment and make sure that I get it on the record. I really want to thank Tamara Pomanski there for helping walk us through this process. Her assistance, and also of the legislative counsel, was just invaluable. I want to make sure I say that on the record.

The Chair (Mr. Peter Tabuns): Thank you. Any interested parties in the room who want to speak to this part of the four-parter? No.

Any comments from government? Not seized with the issue today? Okay.

Members of the committee? Good.

I assume you're ready to vote?

Bill Pr19, An Act to revive Kingsgate III Limited:

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

Bill Pr20, An Act to revive Kingsgate IV Limited. I'm going to assume, Ms. Armstrong, that you have said what you need to say.

Ms. Teresa J. Armstrong: Yes, Chair.

The Chair (Mr. Peter Tabuns): Mr. Quigley, I assume you have said what you need to say.

Any interested parties in the room on this matter? Apparently not.

Any comments from the government?

Questions from other members of the committee? No.

Are members ready to vote? You're a hardy group.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

Bill Pr21, An Act to revive Westmount Ridge Associates Limited. Ms. Armstrong, any comments on this last one?

Ms. Teresa J. Armstrong: No comment.

The Chair (Mr. Peter Tabuns): Mr. Quigley?

Mr. Peter Quigley: My only comment is to thank Ms. Armstrong, London's hardest-working MPP, for helping us out on this.

The Chair (Mr. Peter Tabuns): I will allow that comment.

Any interested parties that want to speak to the bill or to comment? None.

Comments from the government?

Questions from committee members?

Interjection.

The Chair (Mr. Peter Tabuns): Ah yes, I can tell you're getting restless out there. Are the members ready to vote? Good.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

The bill is passed.

Thank you, members of the committee. Before I say anything final, I'll check with the Clerk.

We are done. This meeting is adjourned.

The committee adjourned at 0939.

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T-8

ISSN 1180-4319

Legislative Assembly of Ontario

Second Session, 40th Parliament

Assemblée législative de l'Ontario

Deuxième session, 40e législature

Official Report of Debates (Hansard)

Wednesday 9 October 2013

Journal des débats (Hansard)

Mercredi 9 octobre 2013

Standing Committee on Regulations and Private Bills

Comité permanent des règlements et des projets de loi d'intérêt privé

Registered Human Resources Professionals Act, 2013

Loi de 2013 sur les professionnels en ressources humaines inscrits

Chair: Peter Tabuns
Clerk: Tamara Pomanski

Président : Peter Tabuns
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Room 500, West Wing, Legislative Building
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Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario

Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 9 October 2013

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Mercredi 9 octobre 2013

The committee met at 0900 in committee room 1.

The Chair (Mr. Peter Tabuns): The Standing Committee on Regulations and Private Bills will now come to order. We're here for public hearings on Bill 32, An Act respecting the Human Resources Professionals Association. You should note there are written submissions received on this bill on your desks.

SUBCOMMITTEE REPORT

The Chair (Mr. Peter Tabuns): We need to start first with the report from the subcommittee on committee business. Ms. Cansfield, if you could read it in and move it.

Mrs. Donna H. Cansfield: Your subcommittee on committee business met on Friday, October 4, 2013, to consider the method of proceeding on Bill 32, An Act respecting the Human Resources Professionals Association, and recommends the following:

(1) That, as per the order of the House, the committee meet for the purpose of holding public hearings on Wednesday, October 9, 2013, and Wednesday, October 23, 2013, in Toronto.

(2) That the Clerk of the Committee post information regarding the hearings on the Ontario parliamentary channel, the Legislative Assembly website and Canada NewsWire.

(3) That interested people who wish to be considered to make an oral presentation on Wednesday, October 9, 2013, should contact the Clerk of the Committee by Tuesday, October 8, 2013, at 4 p.m.

(4) That interested people who wish to be considered to make an oral presentation on Wednesday, October 23, 2013, should contact the Clerk of the Committee by Monday, October 21, 2013, at 10 a.m.

(5) That, in the event that all witnesses cannot be scheduled, the Clerk of the Committee provides the members of the subcommittee with a list of requests to appear and that the subcommittee provides the Clerk of the Committee with a prioritized list of witnesses to be scheduled.

(6) That the Clerk of the Committee notifies the sponsors of the bill regarding the hearing dates.

(7) That the length of presentations for witnesses be a total of 10 minutes, with five minutes for a presentation and up to five minutes for questions on a rotational basis.

(8) That the deadline for written submissions be Wednesday, October 23, 2013, at 5 p.m.

(9) That, as per the order of the House, the deadline for filing amendments to the bill with the Clerk of the Committee is Tuesday, October 29, 2013, at noon.

(10) That, as per the order of the House, clause-by-clause consideration of the bill be scheduled for Wednesday, October 30, 2013.

(11) That the research officer provide the committee with background material by Friday, October 11, 2013.

(12) That the research officer provide the committee a summary of the presentations by Monday, October 28, 2013, at 10 a.m.

(13) That the Clerk of the Committee, in consultation with the Chair, be authorized prior to the adoption of the report of the subcommittee to commence making any preliminary arrangements to facilitate the committee's proceedings.

I move that the subcommittee report be adopted.

The Chair (Mr. Peter Tabuns): Thank you, Ms. Cansfield. Any debate? All those in favour? Opposed? It's carried. Thank you.

We'll go now to our presenters.

REGISTERED HUMAN RESOURCES PROFESSIONALS ACT, 2013

LOI DE 2013 SUR LES PROFESSIONNELS EN RESSOURCES HUMAINES INSCRITS

Consideration of the following bill:

Bill 32, An Act respecting the Human Resources Professionals Association / Projet de loi 32, Loi concernant l'Association des professionnels en ressources humaines.

HUMAN RESOURCES PROFESSIONALS ASSOCIATION

The Chair (Mr. Peter Tabuns): I'll call on the Human Resources Professionals Association to come forward. You have up to five minutes for your presentation, and up to five minutes have been allotted for questions from committee members. Could you please state your names for Hansard, and we'll start.

Mr. Claude Balthazard: My name is Claude Balthazard. I'm VP, regulatory affairs, at HRPA.

Mr. Bill Greenhalgh: My name is Bill Greenhalgh. I'm the CEO of HRPA.

Mr. Scott Allinson: Scott Allinson, vice-president of public affairs for the Human Resources Professionals Association.

The Chair (Mr. Peter Tabuns): Please begin.

Mr. Bill Greenhalgh: Thank you. I thought that I had 10 minutes to talk, so I'm going to have to cut this down as I go, so I will sort of ad lib.

The Chair (Mr. Peter Tabuns): I'll say this to you: You can speak for 10 minutes, but they won't get a chance to ask you questions.

Mr. Bill Greenhalgh: That's fine. I'll cut it down as we go.

As you know, the Human Resources Professionals Association, HRPA, is Ontario's HR thought leader. We have more than 20,000 members in 28 chapters spread across the province of Ontario, and those members represent about 8,000 or so organizations. They cover every industrial sector. Between them, those companies employ about 2.5 million Ontario workers.

We're governed by legislation that's encoded in the Human Resources Professionals Association of Ontario Act, 1990. Of course, that hasn't changed since then; it's roughly 20-odd years old now.

We are a regulatory association under the purview of that act, and our major goal as a regulatory association is to protect the public interest. We do that by:

—setting standards for our members who enter and work in the HR profession;

—establishing requirements for association membership and certification;

—maintaining and updating rules of professional conduct that regulate the behavior and practices of our members, and that specify how and when they might be sanctioned or removed from membership; and

—establishing professional liability insurance requirements.

Our members have a very high level of professionalism and are protected by regulatory safeguards to complete this work, both to create value for the organization that employs them and to ensure the legislative rights of workers in the workplace.

We strongly believe that an updated act will better safeguard the public interest by enhancing its regulatory and oversight powers to ensure that Ontario's workplaces are fully compliant with existing and future provincial workplace legislation.

This, in fact, is supported by a recent HRPA study that looked at information about convictions under the Employment Standards Act that were posted on the Ontario Ministry of Labour website. What we did was cross-reference those convictions with names of HRPA members on membership records. There were a total of 489 ESA convictions between October 2008 and January 2010, and none—0%—were linked to an HRPA member. All the convictions were non-HRPA members.

When our board of directors committed to updating our current act, we sought an independent expert opinion on the bill from Richard Steinecke, who is one of the foremost legal experts on regulation certainly in Canada and probably throughout North America. In fact, all of our processes—our adjudicative processes, complaints investigation and discipline—are based upon comments he made and on the lessons we've taken from the law society and from the accounting associations.

Bill 32 will update from 1990. It will also assist the HRPA and its members to evolve into a strong and credible tier-one profession, and will mitigate risks to consumers and businesses that aren't fully addressed in the 1990 act. These include, for example, harm to the public: In 2010 and 2011 alone, more than one in seven former HRPA members continued to use the CHRP designation without authorization. Once they leave the association, they're not permitted to use it anymore, but they continued to do so. This number is growing, and increased by more than 30% in 2012. That doesn't include misuse by people who were never members of HRPA in the first place, or unreported or undetected cases of misuse.

The Chair (Mr. Peter Tabuns): You have a minute left.

Mr. Bill Greenhalgh: Okay. There are a number of changes that will be incorporated in the new act, and one in particular is that our board in the future would include three individuals who are not members of the association or a self-regulated human resources body, and who are appointed by the Lieutenant Governor in Council.

It also updates our prior act to deal with some significant changes in employment legislation in the last few years such as accommodation, which wasn't recognized in the 1990 act. For example, when people in the workplace have issues with disability or broad health issues, our ability today has to be punitive. We have no ability to function in a rehabilitative way by recognizing incapacity.

I think that strengthening protection of the public is what Bill 32 is all about. As the Ontario workplace evolves, and as the government continues to introduce legislation to govern the workplace, organizations need HR professionals who can interpret and implement these rules for the benefit of everybody, both employers and employees.

Thank you for your time this morning.

The Chair (Mr. Peter Tabuns): Thank you. The first questions are to the opposition. Mr. Jackson.

Mr. Rod Jackson: Thank you for your presentation. I know that you didn't get all the time you needed to get across all the things that are important to you. However, I'm wondering if you can elaborate a little bit on why it's important that people who do not belong to the HRPA or people who haven't earned the CHRP designation, or whatever designation it may be—why is it important that those people be accredited with the HRPA?

0910

Mr. Bill Greenhalgh: Well, there's no licensing requirement in the act, so that it's optional as to whether people belong to the association or not. The differentia-

tion is that we have very strong rules of professional conduct that determine how people behave and how they act in the workplace, and we have adjudicative processes that deal with anything that happens contrary to those rules of professional conduct.

With people outside of the membership, or who are known as CHRPs, what we have found, in that particular study that we did and through other information we have as well, is that many people who are non-HRPA members are giving advice to companies in the HR field that in fact is incorrect because they're not aware of the most recent legislation. Our members are required to go through continuous professional development. Every three years, they have to renew that designation, and a large part of that is to keep up to date with changes in legislation and the workplace. There's no obligation for people—you don't have to be a member of HRPA to function in HR, but if you are a member of HRPA, you're subject to some guidelines and rules of professional conduct that we make sure are enforced.

Mr. Rod Jackson: Is there a concern that maybe there are some people out there who are misleading employers by using designations improperly?

Mr. Bill Greenhalgh: Absolutely. That's exactly the point. In fact, that's an increasing number. I guess as the economy changes a bit, people are leaving the association and still using the designation. In the old act, we have no way to control that at all. It's misrepresentation, and it's actually damaging employers and workplaces.

Mr. Rod Jackson: Have you had complaints from employers about people using a designation improperly?

Mr. Bill Greenhalgh: We've not had complaints about the designation, but we've received complaints about issues that are related to non-members of the association and we are forced to say, "Well, we can't deal with that because we can only enforce the sanctions or whatever on our members." So we have had complaints from employers who have received inadequate or, even in some cases, incorrect advice.

Mr. Rod Jackson: Right. In a nutshell, how do you think this bill will benefit employers in helping them advance their business and grow their business?

Mr. Bill Greenhalgh: I think in many cases, there's new legislation—for example, in workplace harassment and bullying and safety—and it changes often. There are many employers around who are just not aware of some of the implications in terms of the potential for convictions or fines or whatever.

Our members do a great job in terms of making sure that the companies they work for are compliant with the legislation as it comes out. They are very aware of it; they are very up-to-date on it. We run educational programs all the time in terms of new laws that impact the workplace. So our members are very cognizant of these changes, and they make sure that employers are compliant. If there are investigations in workplaces or in companies, it can be incredibly disruptive for employers and have a big impact on employees as well. They make sure that doesn't happen.

Mr. Rod Jackson: It would mitigate the risk, is what you're—

The Chair (Mr. Peter Tabuns): Sorry. There's just about a minute left. If I could move on to the next party. Mr. Vanthof.

Mr. John Vanthof: Just a quick question. I take it that in your opinion, this act would also be of a large benefit to employees as well—

Mr. Bill Greenhalgh: Absolutely. One of the things I mentioned originally, in fact, is in terms of—accommodation is not an issue, is not a fact, of our existing bill. We just can't deal with anything because there's no ability in there. We can deal with the bylaws, but they're not encoded in any law. The new act recognizes incapacity so it allows us to deal with that particular concern.

In terms of employees as well, our members act as the interface between the employer and the employee. I said earlier, they represent about two and a half million employees around the province. Safety, in particular, is a key point. They make sure that workplaces are safe and that people don't get injured and those kinds of things. It's absolutely a bill that benefits both employers and the employees.

The Chair (Mr. Peter Tabuns): Thank you very much. The 10 minutes are done. I appreciate it.

Mr. Bill Greenhalgh: Okay. Thank you.

Mr. Bill Walker: Chair, is it possible to ask one line of clarification which I think is pretty significant?

The Chair (Mr. Peter Tabuns): Is the rest of the committee agreeable?

Mr. Bill Walker: It's just that I think I read in there, and I just want to make sure I read it correctly, that there's no mandatory requirement to join.

Mr. Bill Greenhalgh: Absolutely correct.

Mr. Bill Walker: So, the buyer beware, if you don't hire someone from HRPA. However, there's no mandatory requirement.

Mr. Bill Greenhalgh: Yes. There's no licensing of any kind. You can opt to be an HR professional and be a member—

Mr. Bill Walker: —and not join.

Mr. Bill Greenhalgh: —and not join. You can still practise your profession. There's no restriction.

Mr. Bill Walker: Thank you very much. Thank you for your indulgence.

The Chair (Mr. Peter Tabuns): Thank you.

MS. MONIQUE SAVIN

The Chair (Mr. Peter Tabuns): I'll next call on Monique Savin. Ms. Savin, if you could have a seat.

Ms. Monique Savin: Thank you.

The Chair (Mr. Peter Tabuns): As you know, you have up to five minutes for presentation and then five minutes for questions. If you'd just state your name for Hansard, and start your presentation.

Ms. Monique Savin: Absolutely. My name is Monique Savin. Thank you very much for meeting with me, or letting me come to speak today. I appreciate it; I'm most grateful.

If I could have your attention—I don't know where you are in this particular bill, or how much information you have read from me that I've sent to the committee.

I am here—and I've sent a copy to you to read this morning as well of my points—to counter what Mr. Greenhalgh has to say.

I'm going to give my personal experience of what it's like for the HRPA to enforce its own policies and its capabilities to do all the things that it says it promises to you.

In my personal opinion, I think they're embarrassing you for supporting this particular bill, for a number of reasons that I will set forth. More importantly—that is important, but more importantly, they do put the public and Ontario businesses at risk for public health and safety.

With the real-life practices that I have been through in the last 18 months or so, I have followed the procedures to report two particular members of the HRPA to the HRPA so that they would help me in my report, to be able to get some information about how they operate, whether they investigate, and whether they discipline their particular members.

Joanne Hogg of the Granite Club, and also her assistant who helped her, Kelly Woods, were two particular people that I was talking about, and I have cases set forth with the HRTO, and also through Manulife and various other proceedings, to be able to make sure that I have some sort of—"justice" is the wrong word; what's the word that I'm thinking of?—responsibility, and be able to take action for what they're claiming to you to have powers for.

What I'm trying to say is that after 18 months or so, I reported to HRPA my experiences with these two particular people, who, through their incompetence and through their misconduct, cost me my job at the Granite Club as a copy editor and Web publisher.

It has had a devastating effect on me. I suffered—and suffer—major depression and post-traumatic stress disorder that has been diagnosed by attending a physician.

I have for you, in the pages that I sent this morning, three provisions I would like to see with the bill, which is a compensation fund for members of the public who have been damaged by the HRPA members and also by the HRPA, who fails to report these particular members to the OHSA, I believe it is.

What's interesting in Mr. Greenhalgh's statement is that he uses some particular data, saying that the HRPA used particular data and a particular time frame, from 2008 to 2010, and lo and behold, zero people from the HRPA—zero members—were found guilty. Well, it's interesting that in the policies and procedures, there is no responsibility to the HRPA to report their members to the Ontario health and safety association for ESA. So they're giving you data that makes absolutely no sense, because it's irrelevant, and it's data that they created themselves.

It's like asking, you know, the team of steroids, to be able to investigate themselves and say, "No, our athletes don't take steroids." That's essentially what my opinion is.

I also would like the HRPA to report its members, when they have been reported by complainants like me, to the ESA so that there is some responsibility. Part of the oversight committee is that, again, part of the self-policing strategy—it's actually a word that Mr. Greenhalgh used. They have put people on the oversight committee who are selected by the HRPA, which does not—

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The Chair (Mr. Peter Tabuns): You have one minute left.

Ms. Monique Savin: Unless I have another five minutes from questions.

The Chair (Mr. Peter Tabuns): Yes, sure. One minute left to speak.

Ms. Monique Savin: To me, it sounds a little self-serving that you pick people to be able to be on an oversight committee. Hey, I'm new to this particular industry and politics. Maybe that's how it goes; I don't know. It's not fair to me as an individual who has, over 18 months, complained and followed the procedures without any legal counsel. I've had to spend my own money—and I am unemployed—to do so, my savings, to be able to protect my self-interest from these particular members.

Moving forward, I wanted to talk to you about the reality of their ability to be able to enforce what they say they're going to enforce and where it is embarrassing you, gentlemen and ladies. They have failed in their investigation of Joanne Hogg. It remains incomplete and incorrect because of my condition, and I went to them for their help to be able to get some answers and concerns and reprimands and retraining for their members, so they don't continue to—

The Chair (Mr. Peter Tabuns): Ms. Savin, your time is up.

Ms. Monique Savin: Got it.

The Chair (Mr. Peter Tabuns): You have to halt.

Ms. Monique Savin: Yes.

The Chair (Mr. Peter Tabuns): We'll go to questions. I'll start with the Liberals.

Mrs. Donna H. Cansfield: Thank you very much for your presentation, but I actually have a question for the Chair, and I would like some guidance. The reason is that Ms. Savin is before the courts with both these organizations, and it puts us in a very awkward position, as members, because of the judicial aspect of this. So I need some guidance from the Chair in terms of actually speaking to the issues she's identified, because normally we're not allowed to get involved with anything before the courts.

The Chair (Mr. Peter Tabuns): Ms. Cansfield, I will consult with the Clerk.

Mrs. Donna H. Cansfield: Thank you very much.

Ms. Monique Savin: While you're consulting, can I continue?

Mrs. Donna H. Cansfield: No.

The Chair (Mr. Peter Tabuns): Thank you. My advice, and my advice to all of you, is that questions should be directed to the bill, its contents, its operations. With regard to any legal action, that's not within our frame of reference and you should govern yourselves accordingly.

Mrs. Donna H. Cansfield: Thank you very much, and I appreciate that perspective.

So my question to you is, how do you believe this bill would improve better practices and processes during the complaint?

Ms. Monique Savin: I don't.

Mrs. Donna H. Cansfield: Okay. Thank you very much.

The Chair (Mr. Peter Tabuns): Okay. To the official opposition.

Interjection.

The Chair (Mr. Peter Tabuns): You have no questions?

Mr. Vanthof?

Mr. John Vanthof: I'd like to thank you for coming and airing your concerns. It's a big part of our system. If you would like to take the remaining part of your time to continue—

Ms. Monique Savin: Yes, thank you very, very much.

Mr. John Vanthof: —that would be fine with me.

Ms. Monique Savin: Is that all right?

The Chair (Mr. Peter Tabuns): If there are no other questions from the members.

Ms. Monique Savin: Yes, is that all right?

The Chair (Mr. Peter Tabuns): Ms. Savin, please proceed.

Ms. Monique Savin: Thank you. I have forwarded several emails and such so that you get some background information. It's very difficult for me to be able to communicate all these things in the time frame, considering I just got the notice to appear yesterday at 4 o'clock. Nonetheless, I have written this morning just three pages, so if you could read them, I would greatly appreciate it, because I'm trying to speak from the public and also from the employer's point of view.

You asked me how this bill is going to help whoever, Ontario employers. It doesn't, the reason being that for me, it's just a big swindle operation, because the public will go to the HRPA for help and assistance, and it appears to be a swindle because they do not help you when you go and you ask for their help, when you follow procedures, and you're in a particular condition caused by the HRPA members, because you're suffering these conditions as a result of their actions, which they fail intentionally to investigate and discipline and retrain.

I feel that they've set themselves up, and a lot of the Ontario employers, for professional malpractice. I think it's a swindle in the sense that they're promising you and promising to support Ontario employers by saying you're going to get value for your money by hiring particular HRPA accredited members. It's bogus. First of all, they don't report any of the stuff that their members do to OHSA for the employment standards, which is important, which is a moot point that he raised. I don't know why he would bring that point up. But it appears that they mislead the Ontario employers about getting value for their money if they hire these particular HR professionals. They're not. They're not getting anything better than anybody else. What happens is, and here's my case, they don't report it, and therefore by failing that, that puts the remaining employees who are at a particular company—say the Granite Club, for example—at risk for public health and safety damages, which I have experienced.

Right now, Ms. Hogg at the Granite Club has her job. She's also serving on a voluntary basis at Ryerson University. I talked to the dean there of the school of hospitality, David Martin, I believe his name is, to complain, saying, "Can you help me with this? Why is she on a board of a school of hospitality as a volunteer?"

The Chair (Mr. Peter Tabuns): You have one minute.

Ms. Monique Savin: Perfect.

Okay, so what I'm trying to say is if you support this bill, the reality is that you're going to support what the HRPA does not do, that they should do, that they have said that they will do, but don't. If you're willing to do that and put lots of other people who don't have guts and heart and have a lot at stake and have to go out there and support their family and have to go out and get the next job—I haven't been able to get a job. At 45 years of age, I haven't been able to get anything just yet, so I have time to follow up on my case.

But for those people who don't, I'm speaking to them, and I'm asking for you to really seriously consider not supporting them because of what they don't do. They've promised you what they've done. I have given them a real-life experience and an opportunity for them to show you and kick your asses by saying: "This is how good we are. This is why we deserve your support."

The Chair (Mr. Peter Tabuns): Ms. Savin, your time is up.

Ms. Monique Savin: Thank you.

The Chair (Mr. Peter Tabuns): Thank you.

Colleagues, that concludes our business today. The committee is adjourned.

The committee adjourned at 0927.

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ISSN 1180-4319

Legislative Assembly
of Ontario

Second Session, 40th Parliament

Assemblée législative
de l'Ontario

Deuxième session, 40e législature

Official Report of Debates (Hansard)

Wednesday 30 October 2013

Journal des débats (Hansard)

Mercredi 30 octobre 2013

Standing Committee on Regulations and Private Bills

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Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario

Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 30 October 2013

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Mercredi 30 octobre 2013

The committee met at 0900 in committee room 1.

REGISTERED HUMAN RESOURCES PROFESSIONALS ACT, 2013

LOI DE 2013 SUR LES PROFESSIONNELS EN RESSOURCES HUMAINES INSCRITS

Consideration of the following bill:

Bill 32, An Act respecting the Human Resources Professionals Association / Projet de loi 32, Loi concernant l'Association des professionnels en ressources humaines.

The Chair (Mr. Peter Tabuns): Good morning all. The Standing Committee on Regulations and Private Bills will now come to order. We're here for clause-by-clause consideration of Bill 32, An Act respecting the Human Resources Professionals Association.

The title is postponed until all other sections have been considered.

Are there any comments or questions to any section of the bill, and if so, to which section? You're not required to speak at this point, just to let you know. You're fine? Okay.

We'll proceed then to the bill.

Interjection.

The Chair (Mr. Peter Tabuns): I've had some very good advice. I'm going to be grouping clauses into sections, and I would just like to be sure that you're all comfortable with that? Excellent; I'll take that as unanimous consent.

Section 1: Any comments? Shall section 1 carry? Carried.

Section 2: Any comments? Shall section 2 carry? Carried.

Section 3: Any comments? Shall section 3 carry? Carried.

Section 4: Any comments? Shall section 4 carry? Carried.

Section 5: Any comments? Shall section 5 carry? Carried.

Section 6: Any comments? Shall section 6 carry? Carried.

Section 7: Any comments? Shall section 7 carry? Carried.

Shall sections 8 through 16 carry? Carried.

The Chair (Mr. Peter Tabuns): At this point, I have to ask you for unanimous consent to revert to the table. The only amendment that has been submitted varies the table. I have unanimous consent? Agreed.

Mr. Prue, you have a motion?

Mr. Michael Prue: Yes, I do. I have a motion here that reads as follows:

I move that Table 1 of the Bill be amended by adding the following items:

"

6.	Certified Human Capital Professional	Conseiller en capital humain agréé	C.H.C.P., C.C.H.A.
7.	Certified Human Capital Leader	Leadeur en capital humain agréé	C.H.C.L., L.C.H.A.

"

The rationale for this, I think, was contained and put down best in the letter from HRPA to the Clerk, and I'd just like to quote what it says: "The Human Resources Professionals Association would like to propose an amendment to table 1 designations in Bill 32 to include two designations that the association has trademarked. They're listed below in column 1: 6. and 7., the Certified Human Capital Professional and Certified Human Capital Leader."

This is upon the advice of their solicitors and it's a very minor amendment to the table and to the bill, and I would ask support for it.

The Chair (Mr. Peter Tabuns): Are there any comments on this amendment? There being none, all those in favour? Amendment carried.

Shall the table, as amended, carry? Carried.

Sections 17 to 24: Any comments? Shall they carry? Carried.

Sections 25 to 33: Any questions, comments? Carried? Carried.

Sections 34 to 42: Any comments? Carried? Carried.

Sections 43 to 51: Any comments? Shall sections 43 to 51 carry? Carried.

Sections 52 to 60: Are there any comments? Shall the sections carry? Carried.

Sections 61 to 69: Any comments? Shall the sections carry? Carried.

Sections 70 to 77: Any comments? Shall the sections carry? Carried.

Table 1 was carried.

Shall the title of the bill carry? Carried.

Shall Bill 32, as amended, carry?

Shall I report this bill, as amended, to the House? Agreed.

The bill has been carried and I will be reporting it to the House.

APPOINTMENT OF SUBCOMMITTEE

The Chair (Mr. Peter Tabuns): We have a section on the appointment of the subcommittee on committee business. Mr. Nicholls?

Mr. Rick Nicholls: I move that a subcommittee on committee business be appointed to meet from time to time at the call of the Chair, or at the request of any member thereof, to consider and report to the committee on the business of the committee;

That the presence of all members of the subcommittee is necessary to constitute a meeting; and

That the subcommittee be composed of the following members: the Chair as chair, Mr. Vanthof, Mr. Fraser and Mrs. McKenna; and

That substitution be permitted on the subcommittee.

The Chair (Mr. Peter Tabuns): Are there any questions or comments on this? None? All those in favour? Opposed? Carried.

That concludes our business.

Mrs. Jane McKenna: Mr. Chair?

Mrs. Donna H. Cansfield: Mr. Chair?

The Chair (Mr. Peter Tabuns): Ms. McKenna first, and then Ms. Cansfield.

Mrs. Jane McKenna: Could I ask for a subcommittee meeting?

The Chair (Mr. Peter Tabuns): You can. After this meeting is concluded, I'm happy to talk with you and set a time.

Ms. Cansfield?

Mrs. Donna H. Cansfield: Actually, I wanted to do the same thing. I wanted to have a subcommittee meeting so we could discuss waste diversion and how we can move forward with it, so thank you very much. And I have a substitute for you for that.

The Chair (Mr. Peter Tabuns): Okay. Well, I'm happy to meet with the two of you and we will find a time. I'll get in touch with Mr. Vanthof so we can convene the subcommittee.

Mrs. Donna H. Cansfield: Couldn't we do it right now?

Mr. Michael Prue: I'm going back to my office. His is next door. I can send him back down the hall, if he's available.

The Chair (Mr. Peter Tabuns): Well, I'm going to talk first about times when people are available, and then I'll bring people together. We'll adjourn now.

The committee adjourned at 0908.

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ISSN 1180-4319

Legislative Assembly of Ontario

Second Session, 40th Parliament

Assemblée législative de l'Ontario

Deuxième session, 40e législature

Official Report of Debates (Hansard)

Wednesday 20 November 2013

Journal des débats (Hansard)

Mercredi 20 novembre 2013

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Publié par l'Assemblée législative de l'Ontario

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COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Mercredi 20 novembre 2013

The committee met at 0900 in committee room 1.

SUBCOMMITTEE REPORT

The Chair (Mr. Peter Tabuns): The Standing Committee on Regulations and Private Bills will now come to order. We are here for public hearings on Bill 6, An Act to protect and restore the Great Lakes-St. Lawrence River Basin. Members of the committee, please note that written submissions received are on your desks.

Our first item of business is the subcommittee report, dated November 18, 2013. Mrs. McKenna, would you read that?

Mrs. Jane McKenna: Your subcommittee on committee business met on Monday, November 18, 2013, to consider the method of proceeding on Bill 6, An Act to protect and restore the Great Lakes-St. Lawrence River Basin, and recommends the following:

(1) That the committee meet in Toronto to conduct public hearings on Wednesday, November 20, 2013.

(2) That the Clerk of the Committee post information regarding the hearings on the Ontario parliamentary channel and the Legislative Assembly website.

(3) That witnesses be scheduled on a first-come, first-served basis.

(4) That witnesses be offered up to five minutes for their presentation and any remaining time be used for questions from committee members on a rotational basis.

(5) That the deadline for written submissions be Friday, November 22, 2013, at 4 p.m.

(6) That the deadline for filing amendments to the bill with the Clerk of the Committee be Monday, November 25, 2013, at 12 noon.

(7) That the committee meet for clause-by-clause consideration of the bill on Wednesday, November 27, 2013.

(8) That the Clerk of the Committee, in consultation with the Chair, be authorized prior to the adoption of the report of the subcommittee to commence making any preliminary arrangements to facilitate the committee's proceedings.

The Chair (Mr. Peter Tabuns): Thank you. Any discussion?

All those in favour? Opposed? I declare the motion carried.

GREAT LAKES PROTECTION ACT, 2013

LOI DE 2013 SUR LA PROTECTION DES GRANDS LACS

Consideration of the following bill:

Bill 6, An Act to protect and restore the Great Lakes-St. Lawrence River Basin / Projet de loi 6, Loi visant la protection et le rétablissement du bassin des Grands Lacs et du fleuve Saint-Laurent.

ECOJUSTICE

The Chair (Mr. Peter Tabuns): Presenters: Many of you have rearranged things to make it here this morning. I want to do everything I can to ensure that everyone gets in for their five minutes. You will be given a warning at the one-minute point, and at five minutes, I'll be moving on to the next person.

I'll be calling first, from Ecojustice, Anastasia Lintner, staff lawyer. You have up to five minutes for your presentation, and if you would state your name for Hansard.

Ms. Anastasia Lintner: Thank you, Mr. Chair. Members of the standing committee, I'm Anastasia Lintner, staff lawyer and economist for Ecojustice. I appreciate the opportunity to speak to Bill 6, the proposed Great Lakes Protection Act.

Existing legal tools and past successes to improve water quality—and here I am thinking specifically about efforts to address eutrophication in Lake Erie in the 1980s—have not been sustained. Three of Ontario's four Great Lakes are in decline.

The solutions are not going to be simply tightening standards for end-of-pipe water quality. Adaptive solutions to complex problems, such as the cumulative stresses that are increasing the frequency and intensity of algal blooms not only in Lake Erie but also in waters throughout the Great Lake-St. Lawrence River watershed, are urgently needed. That is why Ecojustice supports Bill 6 and the new tools that will fill gaps in existing law and policy that it will enable.

As has been stated, I'm Anastasia Lintner. Ecojustice is a non-profit charitable organization of passionate individuals committed to protecting the health of our environment for our fellow Canadians. Ecojustice has been working with Environmental Defence, the Canadian

Environmental Law Association and Ducks Unlimited Canada to informally steer the Great Lakes Protection Act Alliance. You should now have before you a copy of submissions authored by our four organizations. There isn't time to go through the entire submission. I trust that you will consider it carefully in your deliberations.

I will, however, bring your attention to our recommendations at the top of page 6. At the top of page 6, we're addressing one of the tools in the proposed bill around targets. We believe that the use of this new tool cannot be left to the discretion of the Minister of the Environment. For urgent threats to our fresh waters that are being faced now, and for which existing legal and policy tools are no longer adequate, targets must be established. We propose mandatory targets to be established in a specified time frame and that there be at least one target for each of the detailed purposes outlined in section 1(2).

If you'll note, what my very general overview of what those five purposes includes is human and ecological health, protection and restoration of coastal areas, protection and restoration of biodiversity, advancing science to address the new complexities that we're facing, and environmentally sustainable economic opportunities.

With that, I'll reiterate our support for Bill 6 and will take any questions for my remaining time.

The Chair (Mr. Peter Tabuns): Okay. Do we have any questions? First to the opposition.

Mr. Michael Harris: Sure. Thank you for coming in this morning. You talked about the existing tools that the government potentially isn't using. I don't know if you want to mention some of those tools that they have, actually, at their disposal yet fail to use.

Ms. Anastasia Lintner: We have sent a letter to the Ministry of the Environment around a number of things that we think could be done better, particularly around the water-taking program. If the committee is interested, I can forward that letter.

There are a number of tools that could be used—for example, phasing in all of the water charges that are enabled by existing legislation—and that would give us a financial basis on which to ensure we are using all the tools effectively, as well as bringing in regulations for intra-basin transfers to fulfil an obligation that we have internationally.

Mr. Michael Harris: Throughout Bill 6, do you see any specific tools that are actually within Bill 6, as it is now, that the government could be using? I don't know if you want to draw on any specifics on Bill 6.

Ms. Anastasia Lintner: Well—

The Chair (Mr. Peter Tabuns): One minute left.

Ms. Anastasia Lintner: Thank you. Here's what I am concerned about: The existing tools, to the extent that we can use them fully, will not address some of our more complex problems. This bill would enable tools that may not exist everywhere in the basin, particularly some tools that the conservation authorities might have which won't be covering the whole basin. From that perspective, it's enabling legislation. The tools I would assume our government would choose would be the best one for each situation.

The Chair (Mr. Peter Tabuns): Thank you very much.

ENVIRONMENTAL DEFENCE

The Chair (Mr. Peter Tabuns): Our next presenter is Environmental Defence, and Nancy Goucher. You have five minutes, and if you'd just state your name for the purposes of Hansard.

Ms. Nancy Goucher: Okay, thanks. Thanks for having us here. My name is Nancy Goucher, and I'm the water program manager at Environmental Defence.

Environmental Defence is an environmental action organization. We try to inspire change in businesses and governments to promote healthier, greener, more prosperous lives for people. Environmental Defence is also part of the Great Lakes Protection Act Alliance, which Ana just introduced, so we're a co-author of the written submission that she has submitted.

The Great Lakes Protection Act is a big part of my job, as it's a big part of our campaign regarding safeguarding the Great Lakes. I've been talking with people about this act for the last few months and getting a good sense of where people stand on this.

Before I get into my three takeaway messages, I just wanted to highlight that there is one slight error or oversight in our submission. We mentioned that there were two First Nations-related amendments that we recommended. It's actually just one.

While we're on that topic, I just want to mention that we endorse any sort of First Nations recommendations related to adding to the purpose of the act around advancing science. So we suggest advancing science and promoting traditional ecological knowledge. I can get you guys the wording of that at a subsequent date.

My three takeaway messages are that there is broad support for provincial action on the Great Lakes. On Friday, we're going to hand in a revised submission with a whole list of endorsements of organizations, and you're going to see that there's a wide variety of groups who are supporting our submission, from small local groups like the York Region Environmental Alliance, and environmental groups like the Canadian Association of Physicians for the Environment.

0910

There are also a number of municipalities who are supporting the Great Lakes Protection Act. Formal municipal motions have been passed in Toronto, Hamilton, the agricultural community of Norfolk and the Georgian Bay communities of Blue Mountains and Owen Sound. I think what this indicates is that there's a range of support for the act moving forward, and that people understand that some provincial regulations are needed to build on the grassroots movement.

The second point that I want to make is that this bill needs to allow grassroots groups to advance Great Lakes protections in their own community. There's a ground-

swell of interest. People care about this issue. The success of the act is going to depend on whether or not the groups will have the ability to actually implement it. We know that it's the government's intent to make this a grassroots-based bill; we just want to see it explicitly stated in the bill.

That brings me to my third point, which is our recommendations regarding public involvement. These are outlined on page 12 of our submission, so you can see the exact wording there. But basically we're asking for clarification around where and how the public can engage on this bill. We want to see that in two ways. One is through new sections that allow people to request GFIs, targets and performance measures. I know that the bill currently enables this, but we want to see this explicitly stated so that the public also knows that they can engage.

Second, before GFIs and targets are approved, we want the minister to seek public input. This is really the nitty-gritty of the bill. This is where it's going to come to play, so we think it's really important to get public buy-in at that point.

The Chair (Mr. Peter Tabuns): You have a minute left.

Ms. Nancy Goucher: Okay. I'll just end it there. Any questions?

The Chair (Mr. Peter Tabuns): Okay. The third party: Mr. Schein, do you have any questions?

Mr. Jonah Schein: Thanks for coming in and for the good work that you've done to put together your presentation. We have a strong strategy in place, but I want you to comment, if you would, on the difference between the strategy document and the legislation and if the legislation will actually realize the strategy that we have.

Ms. Nancy Goucher: In our submission, we also do talk about the connection between the strategy and the act. We feel that the strategy has done a lot to outline the goals, priorities and how we can move forward. The act is a really important piece of that because it starts to legislate action and ensure that we're going to be able to continue working on the Great Lakes even if priorities in government change—that the act gives us a bit more guarantee that this remains a focus for the government. These problems that we're facing in the Great Lakes are not going to be solved overnight; they're going to take a long-term—

The Chair (Mr. Peter Tabuns): Ms. Goucher, thank you. Thank you very much.

ONTARIO HEADWATERS INSTITUTE

The Chair (Mr. Peter Tabuns): Our next speaker: Ontario Headwaters Institute. Mr. McCammon, as you know, you have five minutes. I'll warn you at one minute. Thank you for making it here today.

Mr. Andrew McCammon: Thank you very much, Mr. Chair. My name is Andrew McCammon. I'm with the Ontario Headwaters Institute. Headwaters are where all the streams start and are important to all receiving bodies of water, including the Great Lakes, because they host the bulk of the biodiversity and all of the biota, nutrients and phosphates which generally go downstream and are the basis of the food chain. So even though you might not think headwaters are important to the Great Lakes, please understand that we think that they are.

We consider this draft bill a white paper that should be withdrawn. I have four points.

First of all, if you read the first sentence of the preamble, it is strictly inaccurate. We do not live in the largest freshwater ecosystem on the planet. It's shocking that a government could make a statement like "the largest bookstore in the world." Any simple search of geographical information will show you that we are the 34th-largest ecosystem in the world, and the fourth in Canada. We're not even the largest in Canada. To lead with that kind of a misstatement is branding which is inappropriate.

Secondly, the detail in the bill is very disturbing. The Headwaters Institute signed one of the submissions from the Great Lakes Protection Act Alliance. I stopped counting amendments at 136. I think that requesting 136 amendments is extraordinarily faint praise for a document. We think they should all be accepted, which is why we signed it, or none; we don't want to play games prioritizing our top 10. The bill is inadequate and should be redrafted.

Thirdly, the real issue is that the bill does nothing to address the great need to shift Ontario to integrated watershed management. It is another complex band-aid addressing a priority that we agree—and we've supported the IJC and the Great Lakes for many, many years. But this bill does nothing to address the problems from the fact that we have a 20-year-old document on watershed management in this province that has never been updated while the ministry has refused to shift to IWM and offer a constructive framework to implement that at conservation authorities.

There are huge gaps in the PPS performance measures for anything of aquatic interest in Ontario—I'll leave it at that. Sorry, that's an obtuse point; I apologize. And issues with policy and implementation gaps with the Conservation Authorities Act—I could go on and on about those problems.

Finally, I look at this bill, and I think it's going to take 10 years to figure out how to implement it. Who's going to do what? The one-window approach is not working in MMAH with respect to the provincial policy statement, and the tutelage of MOE, I suspect, will not work with respect to protection of the Great Lakes. It will take 10 years to sort out who's on first, who's doing what and where the budgets are, while we are pillaging MNR and reducing our capability to actually do monitoring. Meanwhile, groundwater, headwaters, IWM and everything else that's meaningful in this province will be sacrificed to the huge effort that will be required to fix this bill. I urge you to withdraw it and ask for a proper approach to the Great Lakes that embraces integrated watershed management.

The Chair (Mr. Peter Tabuns): Thank you, Mr. McCammon. The government: Mr. McNeely.

Mr. Phil McNeely: Thank you, Mr. McCammon, for coming in. I just have a few questions. We don't have much time, so I'll just go to the targets that are a big part of this. Do you feel that setting measurable targets and tracking performance to achieving targets is important?

Mr. Andrew McCammon: Yes, sir, extremely important.

Mr. Phil McNeely: Is it well covered in this legislation?

Mr. Andrew McCammon: I don't believe there's any indication of implementation measures. Performance measures were promised for the PPS review that started in 2010 and is ongoing, and there are no performance measures. We're going into the 2015 review of the Greenbelt Act. I've asked the ministry for a status report on performance measures. It has not been forthcoming. Putting performance measures in a bill has nothing to do with budget estimates and resources to do it. The big problem I see is that MOE does not have the capacity, while we are cutting back MNR significantly. It's absolutely silly. Is MOE going to rehire the people that MNR is going to fire? There's no plan here. It is greenwashing to talk about performance measures without having the system in place to do them.

Mr. Phil McNeely: I still have a minute?

The Chair (Mr. Peter Tabuns): Yes.

Mr. Phil McNeely: How could the province have structured the Great Lakes Guardians' Council to involve the Great Lakes partners to identify priority actions for the protection of the Great Lakes?

Mr. Andrew McCammon: I think that's a whole other five minutes—

The Chair (Mr. Peter Tabuns): And unfortunately, you have five seconds.

Mr. Andrew McCammon: I think that some of my colleagues in the Great Lakes Protection Act Alliance, whom I admire tremendously, have made significant suggestions with respect to the guardians' council and the strategy. We signed on to that document. We approve of those suggestions. The problem is those details are being lost.

The Chair (Mr. Peter Tabuns): Thank you very much.

Mr. Andrew McCammon: Thank you all very much.

CONSERVATION ONTARIO

The Chair (Mr. Peter Tabuns): Our next presenter is Conservation Ontario. You have five minutes to present. If there's any time left over, questions will be asked. I'll give you a one-minute signal. Please give your name for Hansard.

Ms. Kim Gavine: Good morning, respected members. My name is Kim Gavine, general manager with Conservation Ontario. Thank you very much for this opportunity this morning. Conservation Ontario strongly supports the purpose of the proposed Great Lakes Protection Act to protect and restore the ecological health of the Great Lakes-St. Lawrence River basin and to create opportunities for individuals and communities to become involved in its protection.

0920

Conservation authorities, as public bodies under the act, are pleased to see that it builds off and enhances existing tools, programs and models. The following comments focus on four key issues that are intended to strengthen the Great Lakes Protection Act.

(1) Integrated watershed management approach: Integrated watershed management enables a suite of interconnected issues to be addressed collectively and efficiently. The proposed Great Lakes Protection Act enables this type of integrated approach. However, to ensure that the act is implemented in a truly integrated manner, it must be coordinated with other provincial legislation and it must facilitate collaboration.

It is recommended that a clause be added under part VI to ensure that the development of geographically focused initiatives is well coordinated with complementary provisions in other provincial legislation.

In addition, it is suggested that subsection 32(2) be amended to include a requirement for the sharing of data necessary to deliver on geographically focused initiatives, and that part IV, target setting, include a similar requirement.

(2) The Great Lakes Guardians' Council: Part II of the act establishes a Great Lakes Guardians' Council. The council has the potential to provide a transparent and accountable decision-making framework, but is currently loosely defined in the act, with members varying from meeting to meeting.

Proposed changes would be as follows: To enable commitment, accountability and continuity in the decisions made by the Great Lakes Guardians' Council, Conservation Ontario recommends that part II of the act be amended to include a defined group of core members, with terms of reference and procedures allowing for additional members as needed. Due to their unique perspective as watershed managers and their role as public bodies, representatives of conservation authorities should be included as core members.

(3) Funding: To ensure the implementation of activities under the Great Lakes Protection Act is successful, a clear and efficient plan for funding these activities is required. It is suggested that amendments be made so that a proposal for an initiative (part V, section 11), an initiative (part VI, section 19) and target setting (part IV), should each include a statement of the funding required, along with partner contributions. These activities could hold significant financial and human resource implications for the public bodies involved, and funding could be a major constraint to success.

(4) Responsibilities of public bodies: Source protection authorities and source protection committees are identified as public bodies with responsibilities under parts IV, V and VI of the act. However, source protection authorities and committees are not incorporated under the

Clean Water Act or any other legislation. This means these organizations will be unable to undertake these responsibilities.

Proposed changes: Accordingly, Conservation Ontario strongly recommends that source protection authorities and committees be deleted from the definition of public bodies under part I, subsection 3(1).

The Chair (Mr. Peter Tabuns): You have one minute left.

Ms. Kim Gavine: Thank you. Conservation Ontario wishes to thank the standing committee for the opportunity to submit comments on the proposed Great Lakes Protection Act. The conservation authorities look forward to assisting the province in achieving Great Lakes protection through providing support and advice and serving as operational science-based delivery agents.

Thank you very much.

The Chair (Mr. Peter Tabuns): Thank you. A brief question from the opposition.

Mr. Michael Harris: Thank you for presenting today. A question for you: Would the Great Lakes Guardians' Council just complicate the work that conservation authorities are currently doing already?

Ms. Kim Gavine: Sorry?

Mr. Michael Harris: Would the guardians' council within Bill 6 just complicate the work that the conservation authorities are currently doing now?

Ms. Kim Gavine: No, I don't think it would complicate the work. I think that there's an opportunity for it being complementary of one another. The conservation authorities have partnerships with many different sectors, be it other not-for-profit organizations, municipalities being a key partner, and other groups doing work. They work well together already, and I think there's a big opportunity for continuing that.

The Chair (Mr. Peter Tabuns): Thank you very much for your presentation.

Ms. Kim Gavine: Thank you.

GREAT LAKES AND ST. LAWRENCE CITIES INITIATIVE

The Chair (Mr. Peter Tabuns): Our next presenter is the Great Lakes and St. Lawrence Cities Initiative. As you've heard, you have five minutes. If you'd give us your name for Hansard.

Ms. Nicola Crawhall: Good morning, Mr. Chair and members of the standing committee. My name is Nicola Crawhall and I'm the deputy director of the Great Lakes and St. Lawrence Cities Initiative, a coalition of 110 Canadian and American mayors representing over 16 million people across the basin.

The cities initiative is supportive of Bill 6, the Great Lakes Protection Act. It's vital that complex problems on the Great Lakes that are not easily addressed through command-and-control regulation are addressed through collaborative action, and the legislated process outlined in Bill 6 would serve as an important means to enable this collaboration.

In establishing this legislative framework, the province has introduced authority that would ultimately allow the minister to approve geographically focused initiatives that could require significant financial and operational commitments from municipalities. The amendments that I will propose to you today would serve to make transparent these costs and responsibilities, and would ensure that municipal councils that are identified have an opportunity to comment on their ability to meet these new costs and responsibilities.

To ensure transparency, we propose an amendment under part VI, section 15, requiring the public body responsible for developing an initiative to include a comprehensive assessment of costs to implement and enforce the initiative, and to identify which parties will incur these costs and responsibilities. Secondly, under section 9, part V, which requires that the minister release a summary of the scope of a GFI before a proposal is developed, an amendment is needed that requires that the government undertake a preliminary assessment of costs there as well.

Armed with this information, municipalities will then be able to provide informed comment on the initiative when it is close to being finalized. It's important that this step be formalized, as it is in the Clean Water Act. To do so, an amendment is needed under part VI that requires that the minister seek a resolution of each municipal council in the geographic area that indicates its comments or concerns with the proposed GFI before the minister approves the initiative.

More than simply being consulted as the GFI is under development, this step will allow a municipal council to provide comment that will shape the final decision of the minister. This type of clause is included in the Clean Water Act, and has been valuable in soliciting informed municipal comment on source protection plans developed under the act.

I have a number of other proposed amendments in this submission that we'll submit to you in writing, but I think I'll end there and just ask if members of the committee have any questions.

The Chair (Mr. Peter Tabuns): Thank you very much. The third party: Mr. Schein.

Mr. Jonah Schein: Thanks for coming in. We've already heard from a couple of people here today about the lack of resources available to actually fulfill our objectives. From a municipalities perspective—clearly you don't have the information in front of you at this point—what would you say is the capacity of the municipalities you represent and work with to actually contribute to a plan at this point?

Ms. Nicola Crawhall: The intent of this legislation is to create a bottom-up, collaborative process. So if we have faith in the process that the municipalities and the government and all the other people who will be impacted by the plan will come together and say, "Here is what we can provide. Here is what we can contribute"—that is why this cost analysis and the identification of those who will be responsible for implementing the plan

is so important—that is the point at which we can assess who can provide what and who can bring what to the table.

Mr. Jonah Schein: Do you think the existing process that's being outlined is workable? We heard somebody else say that it might take 10 years for things to fall into place.

The Chair (Mr. Peter Tabuns): One minute left.

Ms. Nicola Crawhall: You'll see in the comments we submit on Friday that we do suggest there be a time limit, when the plan arrives on the minister's desk, and that he or she be given nine months to make a decision. I think that will keep it tighter than 10 years, for sure.

Mr. Jonah Schein: Thank you very much.

The Chair (Mr. Peter Tabuns): Thank you. The government: a brief question.

Mr. Phil McNeely: Your organization has championed the need for—just a second here; I moved ahead—increased efforts to protect the Great Lakes. Do you think the proposed legislation, on the whole, is a positive step in protecting the Great Lakes?

Ms. Nicola Crawhall: I do. As I mentioned in my introductory comments, the command-and-control regulatory approach can focus on point sources like sewage treatment plants and industry, but what we're finding now is that the Great Lakes are affected by what are called non-point sources. That means you need collaborative action right on the ground, and this is what this process that's established under Bill 6 would establish in Ontario.

The Chair (Mr. Peter Tabuns): Thank you, Ms. Crawhall.

Ms. Nicola Crawhall: Thank you, Mr. Chair.

REGISTERED NURSES' ASSOCIATION OF ONTARIO

The Chair (Mr. Peter Tabuns): Registered Nurses' Association of Ontario. Mr. Jarvi, if you'd have a seat. Welcome. As you know, you have five minutes, with a one-minute notice.

0930

Mr. Kim Jarvi: Good morning. My name is Kim Jarvi. I'm the senior economist with the Registered Nurses' Association. With me today is Reena Ahluwalia, who is representing the Ontario Nurses for the Environment Interest Group. It's an interest group of RNAO.

RNAO is the professional association representing RNs in all settings and roles across Ontario. We thank the standing committee for giving us the opportunity to present our views on Bill 6, the Great Lakes Protection Act.

RNAO welcomes the introduction of Bill 6, and we welcome any measures to strengthen environmental protection under the bill. As an aside, I will thank the Headwaters deputant for injecting a sense of urgency into the proceedings here. RNs do understand the strong link between environment and health as part of RNAO's mandate to advocate for healthier communities via healthier environments.

You have before you our submission. Given the shortness of my time, I'm going to jump straight to an abbreviated version of our recommendations.

First, we agree with the purposes of the bill, which are in part to protect human health and well-being through the protection and restoration of the ecological health of the Great Lakes-St. Lawrence River basin. One essential step to do that is to significantly reduce pollution. It's imperative to explicitly put pollution reduction into the act, supported by necessary regulatory tools, as suggested in the regulations to section 1(2)1 and schedule 1 in our submission.

Second, targets are necessary to realize pollution reduction, and they must be associated with timelines, as per our submission's amendments to section 8(1). To effect significant change, targets must be ambitious.

Third, our submission adds supporting amendments calling for the adoption of environmental decision-making principles, as articulated in Ontario's Great Lakes Strategy; it's a companion document. It also calls for a strengthening of accountability and maximizing access to consultation. RNAO believes that transparency, accountability and an informed, engaged public are important protectors of environmental health.

In the above amendments, we adopt, or we support, language from the Bill 6 submission of the Great Lakes Protection Act Alliance. The first two deputants are co-signatories, or members, of that alliance. We support the GLPAA package of recommendations; it's an extensive one. They are consistent with the spirit and intent of the bill. We urge you to consider them carefully.

In conclusion, by the bill's own reckoning, the Great Lakes are in decline. Ontario needs to become a bigger part of the solution. The bill can truly be a Great Lakes Protection Act if it can function as a pollution reduction tool.

We thank you very much for the opportunity to present our recommendations on Bill 6, and we stand ready to answer any questions.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Jarvi. Questions, to the government: Ms. Cansfield.

Mrs. Donna H. Cansfield: Thank you very much for coming in and participating in this forum. It's interesting: When we look back, typically we've only had environmental groups, and it's refreshing to know that there are others who take this as seriously as we do and that it isn't just about one part; it's a responsibility for all of us to get engaged in this issue. My question to you, as we move forward—

The Chair (Mr. Peter Tabuns): One minute.

Mrs. Donna H. Cansfield: —how do you actually see the province asking you to participate in the different processes in this bill?

Mr. Kim Jarvi: We do have recommendations here that we echo on the public consultations. In our submission, we also speak to movement in other areas. We're engaging with the Ministry of the Environment on

the matter of toxics reduction. Right now, the process is somewhat stalled. We see this bill as being a way to advance toxics reduction, but the Toxics Reduction Act is another tool that has the potential to have a major effect. We would really like to see that bill completed, all the sections in the bill completed, and then some supporting action as well.

Mrs. Donna H. Cansfield: Thank you.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Jarvi.

Mr. Kim Jarvi: Thank you very much for the question.

DUCKS UNLIMITED CANADA

The Chair (Mr. Peter Tabuns): We go to our next presenter, Ducks Unlimited. As you've heard, you have five minutes to present. I'll give you a warning at the one-minute mark. If you'd introduce yourselves for Hansard.

Mr. Owen Steele: Mr. Chair and members of the committee, good morning. My name is Owen Steele, and I'm the head of conservation programs for Ducks Unlimited Canada here in Ontario. With me today I'm joined by Kevin Rich, who is a member of our policy team with Ducks Unlimited Canada.

In this brief presentation, I'd like to walk you through some of the history and work that Ducks Unlimited Canada has done in the Great Lakes. I'd also like to share comments with you on how you can strengthen the Great Lakes Protection Act, and, thirdly, share with you our rationale for the recommended amendments that we'll put forth.

We're extremely proud to be here. This year, we're celebrating our 75th anniversary. Our mission is to conserve, restore and manage wetlands and associated habitats for the benefits that they provide to waterfowl, other wildlife and to people. Thanks to our efforts and the efforts of our 30,000 supporters and partners, we've been able to conserve 953,000 acres—almost a million acres of habitat under our stewardship—protecting it for the people of Ontario.

We're very proud of our work here in the Great Lakes basin and on the US and Canadian sides through the groundwork and the policy initiatives, including key roles with the Eastern Habitat Joint Venture, which is part of an international plan by government and non-government partners to conserve habitat for North America's waterfowl, and also with the Great Lakes Protection Act Alliance, of which we are a proud participant.

As a trusted government partner, we also recently signed a 15-year MOU with the Ontario Ministry of Natural Resources to advance the conservation of Ontario's wetlands. Ducks Unlimited Canada enthusiastically supports the passage of the Great Lakes Protection Act. Not precluding deliberation of this committee, we believe that the legislation can be strengthened. How? By amending the act so that it includes a commitment to the establishment of a target to conserve Great Lakes wetlands.

Targets are commonplace in regulations or in other planning documents, and we recommend that the legislation reflect this need. An opportunity like Bill 6 comes along seldom, certainly seldom in my career, and perhaps just once in one's lifetime. Committee members, you have the opportunity, after the hearing closes today, to recommend changes. I urge you to recommend an amendment that states that a wetland conservation target or targets be established within 24 months of the day the bill comes into effect. In our opinion, this amendment could fit logically in section 8 of the bill, which deals with targets.

Why do we need wetland conservation targets? We think the evidence is clear: Policies currently set forth to protect wetlands are not doing their job. Further delays in putting wetland targets in place will only cause further wetland losses and degradation. Target-setting in the bill specifically for wetlands will certainly protect the ecological integrity of the Great Lakes and will also provide government and society a clear focus and goals to strive for and markers to help us evaluate progress—successes—that can be made through our joint efforts.

The Chair (Mr. Peter Tabuns): You have a minute left.

Mr. Owen Steele: They also will ensure greater transparency and accountability.

Thank you for the opportunity to present to committee today and for your efforts in ensuring that Ontario's Great Lakes and their wetlands are protected and restored for future generations to come.

The Chair (Mr. Peter Tabuns): Thank you. Questions from the official opposition: Mr. Harris?

Mr. Michael Harris: Yes. Thanks for coming in today. We, of course, agree that we should protect our wetlands, but how would you propose balancing wetland protection with property owners' rights?

Mr. Owen Steele: Right. That's a good question. We realize that we have lost 72% of our historic wetlands, and we continue to lose wetlands annually: 3,500 hectares per year. But some of those wetland losses are unavoidable, and in that regard we call for a no-net-loss approach, which includes a compensation component to deal with some of those unavoidable losses that you are referring to.

Mr. Michael Harris: All right. Thank you.

The Chair (Mr. Peter Tabuns): Thank you very much.

WELLINGTON WATER WATCHERS

The Chair (Mr. Peter Tabuns): Our next presenter will be Wellington Water Watchers, who are on teleconference: Mike Nagy. We're set to go on that?

Mr. Mike Nagy: Yes. Hi, it's Mike Nagy, chair of the Wellington Water Watchers. Thank you very much for the opportunity to speak today. Can everyone hear me okay?

0940

The Chair (Mr. Peter Tabuns): We can hear you clearly, Mike. Just to let you know, you have five

minutes, and I'll give you a warning at the one-minute mark.

Mr. Mike Nagy: Thank you. My comments will be relatively brief.

Just quickly, about us, we're a community-based organization and an official not-for-profit based out of Guelph and Wellington. We're a very effective small group which believes that not just the status quo of water protection is required, but enhancement and improvement of water quality is vital. We've done many projects, and our focus is primarily on the Grand River watershed, which obviously drains into Lake Erie, and all the tributaries and ecosystems associated with that.

We've also signed onto the alliance letter with the Canadian Environmental Law Association, Ducks Unlimited, Ecojustice and Environmental Defence, which you'll be receiving soon, so I'm not going to duplicate the comments that are in there. However, we just want to emphasize several aspects with regard to the bill, which we're in general support of. I reiterate my colleague's comments from Ducks Unlimited: This is a very rare opportunity, and we really urge you to endorse this.

We believe that meaningful and legitimate stakeholder engagement is required—this is very important as we are a grassroots, community-based organization—because stakeholders in their geographic area really know what's going on more than a ministry or more than other areas, in some cases, and public engagement needs to be empowered in a meaningful way. When they're doing volunteer hours and working on items, this needs to be taken into account. This opportunity for designated public bodies is very exciting to us. Whereas the Wellington Water Watchers has always taken a very professional approach to water protection, perhaps that's a mechanism that would be open to us: to be an empowered body to take on initiative. We think that having community-based initiatives is very important.

We very much believe in the watershed ecosystem approach of the bill. This is something that we've been asking for for a long time, because the Great Lakes are not an isolated, static body of water. Obviously, the quality that they have is totally reliant upon the quality of the ecosystems which are feeding them.

Primarily, however, we want to make sure that the decision-making principles are actually legislated into the bill and enshrined so that they are reflected right in the bill itself as sort of obligatory, because the main focus of our group also has always been the precautionary principle. If it had been applied in many of the projects that we've worked on, a lot of time, government money and everybody else's time could have been saved. The precautionary principle is something that's become a bit of a window-dressing item throughout society now, so we'd love to see those principles actually enshrined into the bill.

That's basically what I have to say. We believe that this bill brings forward a lot of new tools and approaches that can address water quality and specific issues. We want the good work that has been done through the strategies development to be reflected in the bill as well.

Thanks so much. Those are my comments.

The Chair (Mr. Peter Tabuns): Thanks, Mr. Nagy. Questions to the third party. Mr. Schein, do you have any questions?

Mr. Jonah Schein: Thanks, Mike. Thanks for your presentation. I appreciate your enthusiasm for this. I'd like to hear more from you about how you think meaningful participation can happen while facilitating an empowered public to actually take action on some of these things. Can you expand on some of your thoughts there?

The Chair (Mr. Peter Tabuns): One minute left.

Mr. Mike Nagy: Often, public engagement is discouraged, because people do participate, and then they find out that through legislative processes, a lot of the work is wiped clean. I think there have got to be some mechanisms so that when people do participate, there is some level of assurance that their input is actually being listened to and there's feedback that is given back in writing or what have you so that it actually shows that participation is happening.

It really comes down to who controls the communication to the grassroots or community organizations and the regulating bodies. I think that needs to be very transparent. A transparent communication mechanism will go a long way to help ensure a more robust public engagement.

The Chair (Mr. Peter Tabuns): Mr. Nagy, thank you very much.

Mr. Mike Nagy: Thank you.

CANADIAN ENVIRONMENTAL LAW ASSOCIATION

The Chair (Mr. Peter Tabuns): Our next presenter: Canadian Environmental Law Association. Good morning.

Ms. Theresa McClenaghan: Good morning. Thank you, Mr. Chairman. My name is Theresa McClenaghan, executive director and counsel with the Canadian Environmental Law Association.

The Canadian Environmental Law Association is an Ontario legal aid specialty clinic responsible for working on environmental issues, province-wide and beyond. In addition to our mandate to represent clients, we also have a mandate to work on law reform issues.

We're pleased to be here in support of Bill 6. It is a bill that provides important new tools and opportunities for the protection of the Great Lakes, which is an essential objective for all of us.

We're also a member, as you know, of the Great Lakes Protection Act Alliance, and I understand you've been provided with the latest version of our submission this morning. I will focus with respect to some suggestions concerning toxics and human health in my brief remarks.

In a recent analysis, CELA and other organizations found that over 32 million kilograms of toxic chemicals and 722 million kilograms of criteria air contaminants were released to the Great Lakes through air on the

Canadian side of the border, and 54 million kilograms of chemicals to water in the basin from direct discharges. These are just the national pollutant release inventory facilities and don't include the additional chemicals from runoff over land. So the issue is critical and urgent.

Over 10 million Ontario residents rely on the Great Lakes directly for their drinking water—over 70% of our population.

On page 7 of the Great Lakes Protection Act Alliance submission that you were provided earlier this morning are the specific recommendations with respect to toxic substances. We're recommending a modification to the purpose of the legislation, and this is the only piece I'll read in. We would reword subsection 1 of clause 1(2) as:

"1. To protect human health, well-being, and ecological integrity through the protection and restoration of the Great Lakes-St. Lawrence River basin, including the reduction and elimination of harmful pollutants."

We also have some suggestions for the schedule at the end of the bill to more explicitly ensure that the tools provided under geographically focused initiatives in the bill may clearly be permitted to address contaminants.

In our view, it is Ontarians' expectation that the Great Lakes Protection Act would strengthen protection of the Great Lakes against harmful pollution, and these amendments would make it more clear and certain that this is one of the intended functions of this act, and that these issues are intended to be addressed through the new tools.

I'll stop there and leave some time for questions.

The Chair (Mr. Peter Tabuns): Okay. Questions go to the government. Ms. Damerla?

Ms. Dipika Damerla: Chair, how much time do I have?

The Chair (Mr. Peter Tabuns): You have about a minute and a half.

Ms. Dipika Damerla: Thank you so much, Ms. McClenaghan, for coming here, and thank you for your support and some of your recommendations. Just very quickly, given that you support the overall purpose, do you think that in general, not specifically, the act does what we are setting out to do and what you would like to see it do?

Ms. Theresa McClenaghan: Absolutely. If we passed the act as is today, we would still have a range of important new tools, new approaches and mechanisms that I have high confidence would lead to real improvements in the Great Lakes' water quality. The suggestions we are making are things that would make it more certain and more clear and advance those tools. But we do support the act.

Ms. Dipika Damerla: Thank you so much.

The Chair (Mr. Peter Tabuns): Thank you very much.

LAKE ONTARIO WATERKEEPER

The Chair (Mr. Peter Tabuns): Our next presenter is Lake Ontario Waterkeeper. Good day, Mr. Mattson.

Mr. Mark Mattson: Good day, Mr. Chairman and members of the committee. My name is Mark Mattson. I've been an environmental lawyer here in Ontario for the last 20 years, and I'm president and waterkeeper for Lake Ontario Waterkeeper, a charity working to protect and restore a swimmable, drinkable, fishable Lake Ontario.

Lake Ontario Waterkeeper's programs bring together law, science, culture and digital media in order to connect and empower people to restore polluted places, protect human health and promote thriving natural spaces.

I'm here really just to reiterate the three reasons we support Bill 6, in addition to our more fulsome recommendations we made earlier in the process: (1) the Great Lakes need all the help they can get; (2) the act empowers Ontario to do more for the Great Lakes; and (3) the act creates an opportunity for Ontario to show leadership on Great Lakes issues. Let me explain.

First, the Great Lakes need all the help they can get. At Waterkeeper, we measure the health of a watershed by asking four questions: Is the water clean enough to touch? Is the water clean enough to drink? Are the fish clean enough to eat? Are there healthy and thriving fish and wildlife populations? That's our "swim, drink, fish" formula.

For the past five years, our organization has been collecting the information that answers these questions, and the results are not good. We created the Waterkeeper Swim Guide to track beach closures. In 2011, there were 6,189 beach advisories on Great Lakes beaches. This year, we counted 3,024 beach advisories on Lake Ontario alone. All that recreational water pollution takes a serious environmental, cultural and economic toll.

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One of the biggest threats to the Great Lakes is sewage and stormwater pollution, and that's one issue we hope the province will address promptly once this legislation is passed. Municipalities won't resolve these infrastructure problems on their own. It is one of two areas where provincial leadership could lead to swift and dramatic improvement in Great Lakes water quality.

Last year, we created the Waterkeeper Drink Guide. This is a collaboration with researchers at the Water Chronicles that tracks drinking water advisories across Canada. Most people associate drinking water problems with isolated communities. They certainly don't think it's a Great Lakes issue, but that's not the case. This year, for example, seven different communities in the Lake Ontario watershed couldn't safely drink their own water from their homes. That pollution that contaminates their wells is often the same pollution that contaminates our creeks and rivers and the lake itself.

On the Great Lakes, fish harvests are expected to decline another 25% over the next 25 years. Lake Ontario's fisheries collapsed in the last century from overfishing and industrialization. Up to 70% of our coastal wetlands have been filled in.

These issues are particularly important in light of the federal government's recent decision to scale back on fish and fish habitat protection. That is under the

Fisheries Act, which now allows for exemptions for the provinces, the CNSC and the National Energy Board, and of course only protects waters where there are significant aboriginal, recreational or commercial fisheries, which would certainly make Ontario more vulnerable than ever.

We're hoping that a renewed commitment to the Great Lakes will filter through to Ontario's energy facilities. Energy takes an enormous toll on fish and fish habitat.

Empowering Ontario: This act certainly does. It's basically an enabling law. It empowers Ontario to do more to ensure the Great Lakes become swimmable, drinkable and fishable again. We hope it will influence decision-makers across all aspects of government, just as the Great Lakes influence every part of our daily lives.

Finally, this is a leadership opportunity. The legislation gives Ontario an opportunity to show leadership.

The Chair (Mr. Peter Tabuns): One minute left.

Mr. Mark Mattson: This province has jurisdiction over more Great Lakes shoreline than any other government. As Ontario goes, so goes the future of the entire Great Lakes watershed. If the Great Lakes are to be healthy, then this province must show leadership.

I'll save my conclusion and just say, finally, that water is not a partisan issue. Every person of every political stripe requires water to survive.

Thanks for the opportunity to speak today.

The Chair (Mr. Peter Tabuns): Thank you. The opposition gets a brief question.

Mr. Michael Harris: Sure. Thanks. You know what? Between the US and Canada, we already have the International Joint Commission, the Great Lakes Water Quality Board and Great Lakes Executive Committee, and the management committee of the COA agreement, of course, all of which work to implement the priorities outlined in the US-Canada Great Lakes Water Quality Agreement.

My question to you would be—this involves many other governments. Wouldn't creating a board, the guardians' council, only focused on Ontario, just kind of complicate things?

Mr. Mark Mattson: No, not at all. With the eight states, the two federal governments and then Ontario and Quebec, someone needs to step up and show leadership, and it's time Ontario did that, because we're the biggest player on the Great Lakes. So this is certainly a sign that we're showing leadership and we can lead on the Great Lakes and protect the Great Lakes for all of us. If we don't do it, it's going to be a lot more difficult to see how they're going to do it with all the various jurisdictions on the other side of the lakes.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Mattson.

Mr. Mark Mattson: Thank you.

ONTARIO FEDERATION OF ANGLERS AND HUNTERS

The Chair (Mr. Peter Tabuns): Our next presenter: the Ontario Federation of Anglers and Hunters. Good day, sir. As you've heard, you have five minutes. If you would give us your name for Hansard.

Mr. Terry Quinney: Good morning. My name is Terry Quinney. I'm the provincial manager of fish and wildlife services for the Ontario Federation of Anglers and Hunters.

Firstly, may I confirm that the committee members have a copy of my presentation?

Okay. My presentation to you this morning is in two parts. In part 1, I wish to demonstrate to you the strong commitments to the restoration of the Great Lakes made by the Ontario Federation of Anglers and Hunters. In part 2, I wish to illustrate how the OFAH will support the Ontario government's efforts to achieve demonstrable further progress in restoring our Great Lakes.

For 20 years, the province of Ontario has partnered with the Ontario Federation of Anglers and Hunters to deliver the Invading Species Awareness Program, successfully educating the public on ways to prevent the introduction and spread of harmful invasive species.

The OFAH was a charter member of the Ontario Biodiversity Council, and we continue to assist the council in implementing their important strategy action items.

We have representation on several binational organizations and committees important to Great Lakes restoration, including the Great Lakes Fishery Commission, the Great Lakes panel on aquatic invasive species, the Great Lakes Water Quality Agreement annex subcommittees, the Great Lakes Commission, and the Great Lakes and St. Lawrence Cities Initiative advisory committee on Restoring the Natural Divide—that is, to prevent Asian carp invasion of the Great Lakes at the Chicago area waterways.

With the Ontario government, Ontario Power Generation, and about 50 additional partners, the Ontario Federation of Anglers and Hunters is successfully restoring an important heritage species, the Atlantic salmon, to Lake Ontario and its tributaries.

The OFAH and its community-based conservation clubs participate in Ontario's Great Lakes Guardian Community Fund program, Community Hatchery program, Ontario Ministry of Natural Resources Fisheries Management Zone advisory councils, the stewardship and habitat conservation program of the Ministry of Natural Resources, and the federal government's Recreational Fisheries Conservation Partnerships Program.

Our goal for the Great Lakes is to see all of the potential benefits from a restored and healthy Great Lakes realized for the people of Ontario and for Ontario society. We're pledging our support to Ontario to use the new Great Lakes Protection Act to achieve the goal I just stated. The utility of this new enabling legislation is potentially highly significant, socially, economically and ecologically.

I've attached a map for you. That map was provided to me by the Ontario Ministry of the Environment. I have attached it because it shows us the geographical scope, the spatial scale, of this new Great Lakes Protection Act, that it encompasses a huge portion of the province—a

reminder that Great Lakes issues are provincially significant issues.

We estimate that about two million people go fishing in Ontario: young, mature, resident, non-resident, city folk and country folk. Their passion for fishing means significant economic returns to Ontario at provincial, regional, and local levels.

The Great Lakes Fishery Commission uses $7 billion—

The Chair (Mr. Peter Tabuns): You have one minute left.

Mr. Terry Quinney: —as the annual value of the Great Lakes recreational fisheries. For Ontario, the Canadian Sportfishing Industry Association estimates Ontario's recreational fisheries to be worth $3.5 billion annually.

In our view, top priorities from the act and its associated Great Lakes strategy include enhancement of our recreational fisheries across the Great Lakes basin, integrating the importance of the tributaries to our fisheries, and the desirability of integrated watershed-level management plans that also incorporate fisheries values as top priorities.

We acknowledge the necessity for a lead government ministry for any legislation—in this instance, the Ontario Ministry of the Environment. However, the nature of the work to be accomplished by the Great Lakes Protection Act and associated Great Lakes strategy is such that Ontario would be well served by having the Ministry of Natural Resources co-lead implementation of the act and strategy.

In conclusion, the OFAH looks forward to working with the government of Ontario and all others to support healthy Great Lakes, Great Lakes that continue to be drinkable, swimmable, and fishable—

The Chair (Mr. Peter Tabuns): Thank you, Dr. Quinney.

Mr. Terry Quinney: You're welcome.

ONTARIO FEDERATION OF AGRICULTURE

The Chair (Mr. Peter Tabuns): Our next presenter, then, is the Ontario Federation of Agriculture. As you've heard, you have five minutes. If you'd give your names for Hansard.

Mr. Mark Wales: Good morning. My name is Mark Wales, and I'm the president of the Ontario Federation of Agriculture. I have with me David Armitage, my director of regulatory reform. Good morning, and thank you for the opportunity to discuss Bill 6.

Members of the committee, the OFA has been actively involved in the government of Ontario's Open for Business initiative. Throughout this process we have developed a more appreciative eye for good legislation and regulation. We believe strongly that legislation and regulation must serve a need that is not presently or adequately served. It must fill gaps.

Justice O'Connor, in his report on the Walkerton inquiry, A Strategy for Safe Drinking Water, made observations of relevance for Bill 6. For example, he recommended the development of a comprehensive policy that serves as the beginning rather than the end of the policy-making process. In this regard, a policy is of more value than legislation because of the ability for a policy or strategy to evolve over time.

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The OFA sees merit in much of what is proposed in Ontario's Great Lakes Strategy, 2012. It may be the policy Justice O'Connor envisioned. We point out that the strategy was prepared without any legislative framework, and that a major goal of Ontario's Great Lakes Strategy, being the establishment of a Great Lakes guardian council, does not require a legislative framework either.

We strongly believe that the goals outlined in Ontario's Great Lakes Strategy can be met using existing legislative tools. The development of more legislation simply creates a recipe for overlap, confusion and conflict. This is completely contrary to all principles of Open for Business. To be clear, Ontario does not need Bill 6 at this time. Existing legislative tools, such as are outlined in our submission, are sufficient to meet the goals of Ontario's Great Lakes Strategy.

OFA believes that municipalities should be the agents that propose initiatives to protect and restore the ecological health of the basin. They are free to issue RFPs to other public bodies as needed. We noted with great concern in the legislation that there is potential for municipalities to have to play second fiddle to some other unelected public body, in that initiatives undertaken by other public bodies could require municipalities to have to amend official plans. This is a clear example of the overlap and conflict that Bill 6 brings. There are many others.

The main thrust of the bill appears to be to enable initiatives aimed at the protection and restoration of the Great Lakes-St. Lawrence River basin. These initiatives should be subject to the Ontario regulatory policy of 2010. This will ensure that:

—initiatives are responding to a clearly identified need;

—initiatives are developed and implemented in a transparent manner;

—initiatives are designed to not restrict local business activity;

—initiatives are based on assessed risk, cost and benefits, and minimize impacts on a fair, competitive and innovative market;

—duplication of other initiatives or regulations is minimized;

—initiatives are results-based;

—initiatives are timely, reviewed on a routine basis and abandoned once the need giving rise to their adoption no longer exists; and

—initiative details are easily accessible and easily understood by the public and by business.

Ladies and gentlemen, we invite you to read our submission in full to better appreciate our concerns with

the proposed Great Lakes Protection Act. As mentioned, we truly believe in the Open for Business process and strongly suggest that if you do also, then the onus is on you to demonstrate the need for Bill 6 first.

The Chair (Mr. Peter Tabuns): Thank you. We have one minute left. Third party? Mr. Schein?

Mr. Jonah Schein: Thanks for coming in. Thanks for making your presentation. Clearly we have a problem in this province in terms of protecting our Great Lakes. You're suggesting that we have legislation in place that should be able to address this problem through the EPA, the Ontario Water Resources Act, the Pesticides Act and the Clean Water Act.

How come this isn't working? We need to deal with this, so if the legislation is not working, what is it that we need to make sure that we have so that we meet the goals of this legislation? Because I'm sure you do agree with the goals of the legislation.

Mr. Mark Wales: Clearly the goals of cleaning up the Great Lakes and making sure that they're healthy—we support that, clearly, but there are so many pieces of legislation already there. You listed a few: the Ontario Water Resources Act, the Nutrient Management Act, the Pesticides Act, the Clean Water Act—

Mr. Jonah Schein: Do we have adequate enforcement of existing acts?

Mr. Mark Wales: We feel that there is at this time, yes.

Mr. Jonah Schein: There is adequate enforcement?

Mr. Mark Wales: Yes.

Mr. Jonah Schein: So if the legislation is in place and the enforcement is there, why is it not happening?

The Chair (Mr. Peter Tabuns): Thank you, Mr. Schein, and thank you, Mr. Wales.

Mr. Mark Wales: Thank you.

WORLD WILDLIFE FUND CANADA

The Chair (Mr. Peter Tabuns): The next presentation: World Wildlife Fund Canada. You have five minutes. If you'd introduce yourself for Hansard.

Ms. Elizabeth Hendriks: Good morning, and thank you very much for providing us the opportunity to speak on Bill 6. My name is Elizabeth Hendriks. I'm the acting director for the national freshwater program at WWF Canada.

WWF Canada is a national environmental organization working on a variety of issues. The freshwater program focuses on creating national health assessments and creating a national picture for the health of Canadian waters.

First, I'd like to commend the government of Ontario for putting important effort into legislation that aims to protect and restore a national treasure: the Great Lakes. WWF Canada is supportive of the proposed Great Lakes Protection Act and is keen to see strong implementation for success.

I would like to also take the opportunity to acknowledge the relationship that First Nations and Métis communities have with the region. I encourage that that perspective is respected and incorporated directly into the decision-making process.

I understand that Bill 6 is an enabling act meant to offer new tools to address the complex risks and threats that we see facing the Great Lakes. With this understanding in mind, target-setting can't be discretionary. Targets should be established within a specific time period such as 24 months to ensure implementation of the act, preferably in a timely manner. The proposed act can require the setting of at least one clear target per stated purpose of the act.

Focusing on wetlands for a bit, they are a key ecological infrastructure for human health and climate change adaptation, and our wetlands are in a crisis. Targets for wetland protection and restoration should be a first step to ensuring implementation in this critical piece. In this vein of Bill 6, enabling an implementation of a clear prioritization and plan for the geographically focused initiatives would be great to see.

The Great Lakes are a vital part of our communities, environment and economy. The complexity of such a system means that one piece of legislation will not provide all the answers, but it is a key piece to the solution and an important step forward towards protecting the region and moving forward.

Thank you for taking this important step and, again, thank you for the time for speaking.

The Chair (Mr. Peter Tabuns): Thank you very much. Questions to the government.

Mr. Monte Kwinter: Yes. Do you see value in having a Great Lakes Guardians' Council as a forum to discuss Great Lakes issues, including freshwater conservation and setting targets related to Great Lakes protection?

Ms. Elizabeth Hendriks: Yes. I think it's important that we have an organization that can coalesce the many organizations and groups that are already working on the issues.

Mr. Monte Kwinter: And if I could just add on: Do you think the proposed legislation before us on the whole is a positive step to protecting the Great Lakes?

Ms. Elizabeth Hendriks: Sorry—that it's enforced? I didn't hear half the question.

Mr. Monte Kwinter: The proposed legislation: Do you think as a whole it's a positive step?

Ms. Elizabeth Hendriks: Oh, definitely, yes. It's a great step. I hope to see it implemented and moving forward.

Mr. Monte Kwinter: Thank you.

The Chair (Mr. Peter Tabuns): Thank you very much.

RESCUE LAKE SIMCOE COALITION

The Chair (Mr. Peter Tabuns): Our next presenter: Rescue Lake Simcoe Coalition. Good morning.

Ms. Claire Malcolmson: Thank you very much. My name is Claire Malcolmson. Good morning, members of

the committee; it's nice to be here today. I am the president of the Rescue Lake Simcoe Coalition, which is a lake-wide citizens' umbrella group which was formed to improve the connection between people—citizens—NGOs and the government in order to protect Lake Simcoe.

The Rescue Lake Simcoe Coalition worked with Ontario Nature and Environmental Defence to advocate for the Lake Simcoe Protection Act, which was passed with all-party support—which we would love to see repeated with this act—in 2008. Since that time, I've been on three different provincial committees working on the implementation of the Lake Simcoe Protection Act and Plan.

I'm talking about this subject today because I think it's important to look at the precedent set by the Lake Simcoe Protection Act. I think I have a unique perspective on that for your consideration. Basically the Lake Simcoe Protection Plan is like a really robust geographically focused initiative. It is probably the most detailed geographically focused initiative one could consider. I think it's important for us to think about what has been achieved and what has been made possible through the Lake Simcoe Protection Plan because it foreshadows what positive things might happen as a result of the implementation of geographically focused initiatives through the Great Lakes Protection Act.

I just want to also note that I support the submission of the Great Lakes Protection Act Alliance.

An important piece of the Lake Simcoe story is that citizens and environmental NGOs started the call for the Lake Simcoe Protection Act. It wasn't a municipality; it wasn't the conservation authority. There was actually a lot of opposition from both of those sets of government, if you will. So I think it is important for the Great Lakes Protection Act to allow citizens' groups and ENGOs to be part of initiating the call for a geographically focused initiative. One of the important objectives of the Great Lakes Protection Act is engaging people and citizens. We all know that there is no way the Great Lakes are going to be healed unless people are involved at every level at which they wish to be involved. So I think allowing that mechanism is an important aspect of making the change that this act envisions.

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Five years after the Lake Simcoe Protection Act was passed, at Lake Simcoe, we can see the shape of some things to come if the Great Lakes Protection Act is passed and if geographically focused initiatives are rolled out quickly, which we would like to see happen. For example—and I think these are important things to consider when you're asking the questions, "Why do we need the Great Lakes Protection Act?" and "Why do we need geographically focused initiatives? What sorts of tools can be used that may not be possible in existing plans and policies?" So, for example, there are—

The Chair (Mr. Peter Tabuns): You have a minute left.

Ms. Claire Malcolmson: —many more low-impact-development experiments. Now environmental assessments are required for water infrastructure before development permits are given, which is a really important order of operations, I believe. Sewage treatment plant standards are better; septic inspection is better.

All that said, it takes a long time to see improvements to water quality. So the Great Lakes Guardians' Council has a very important job of bringing together the work of different ministries so that the work of one ministry doesn't create problems that another ministry needs to clean up.

Any questions?

The Chair (Mr. Peter Tabuns): A very quick one from the official opposition.

Mr. Michael Harris: Yes, sure. We talked a lot about the existing tools and the agreement under the Great Lakes Water Quality Agreement and COA, Ontario's responsibilities. They did promise to follow through on those commitments last spring but have failed to do so. Don't you think Ontario should actually show some leadership through the existing governance framework under the Great Lakes Water Quality Agreement, especially those COA—Canada-Ontario Agreement—initiatives?

Ms. Claire Malcolmson: Yes, absolutely, and one of the ways, if the Great Lakes Protection Act is passed, that Ontario would be able to do that is through geographically focused initiatives, which basically provide a way for incremental policy change. You experiment with a particular tool in a place where there's an appetite for it, and then you find—

The Chair (Mr. Peter Tabuns): Thank you for your presentation.

Ms. Claire Malcolmson: Thank you.

Mr. Michael Harris: We'll follow up later, Claire. Thanks.

The Chair (Mr. Peter Tabuns): Thanks very much.

FEDERATION OF ONTARIO COTTAGERS' ASSOCIATIONS

The Chair (Mr. Peter Tabuns): The next presenter: Federation of Ontario Cottagers' Associations. I gather we have Terry Rees on the line.

Mr. Terry Rees: Hello.

The Chair (Mr. Peter Tabuns): Terry, please go ahead. If you could give your full name, and you have up to five minutes.

Mr. Terry Rees: Very good. Thank you very much. Can you hear me okay?

The Chair (Mr. Peter Tabuns): Yes.

Mr. Terry Rees: Thank you and good morning. Thanks for this opportunity to address the committee on the Great Lakes Protection Act.

My name is Terry Rees. I'm the executive director of the Federation of Ontario Cottagers' Associations, or FOCA for short. FOCA supports Bill 6.

By way of background, a little bit about our organization: FOCA and our members have been an integral part of waterfront Ontario for over 50 years. We're an

incorporated not-for-profit, a province-wide association that represents over 500 waterfront property owners' groups with over 50,000 member families. Through and on behalf of these members, FOCA speaks to the priority issues of Ontario's 250,000 waterfront property owners and, more broadly, to good public policy.

Several dozen of our member groups live on the Great Lakes proper, on Lake Superior, Lake Huron, Georgian Bay, Lake Erie and Lake Ontario. Several hundred of our associations—virtually all of the rest—live within the Great Lakes watershed. So we're very much interested in this act and its prompt passage.

Waterfront property owners have a vested and long-term interest in sound and balanced land use planning and are a major economic force in Ontario. Amongst other things, they collectively contribute almost $800 million annually in property taxes and collectively provide the financial means to construct and maintain municipal infrastructure, local economies and the local administration in and across the Great Lakes watershed. Waterfront property owners own over 15,000 kilometres of ecologically important shore lands and also have, in private ownership, over 50,000 hectares of near-shore habitat. So including the whole watershed in this act is very important to us, because there are people across this province who need to be engaged, and the government's not going to be able to do this alone. Engaging Ontarians across the watershed is going to be important.

More important even than the littoral private ownership stake that I've just described is the long-term and very deep commitment these communities and these individuals feel to their local waterways and, by extension, to the greater Great Lakes watershed. This energy and knowledge and commitment can be supported and a strong public constituency for the Great Lakes can grow if the public is provided the opportunity to input into decisions that impact the health of the Great Lakes. This can be achieved by allowing the public to request new geographically focused initiatives, targets and performance measures as part of the act's implementation.

Implementing the act through an open and transparent process will ensure that we're monitoring the right things and that we're collaborating effectively. Thus, we'll be taking full advantage of the public capacity and knowledge and we can encourage innovative local solutions.

Passing this bill with the critical components in place can ensure that the government fulfills its commitment and can help ensure that the public is involved in doing their part too.

In addition to the considerations related to community involvement, we feel that a strong and effective Great Lakes Protection Act has the potential to create the planning and regulatory tools necessary to better address the complex issues facing the Great Lakes now and in the future. It will address legislative gaps in the current Great Lakes policy. It's going to provide important mechanisms to track and measure progress on improving Great Lakes health and hold the responsible authorities accountable. It will affirm the provincial commitment to meet targets with the neighbouring Great Lakes states and the St. Lawrence River states and provinces.

The act will help focus public attention and government resources on the urgency of these issues at hand—

The Chair (Mr. Peter Tabuns): You have a minute left.

Mr. Terry Rees: —and will help align priorities and decision-making across provincial ministries.

We suggest that tracking and monitoring of targets and performance measures are a legislative requirement in the act, so it's important that the principles contained in the strategy guide provincial decisions affecting the lakes.

A funding plan for sustainable implementation over time is going to be critical, and only through this ongoing support for citizen-led initiatives will this act do all it can for Ontario.

FOCA is supportive of Bill 6, the proposed Great Lakes Protection Act. We think that the bill introduces important new legal and policy tools that will help safeguard and restore the Great Lakes and the St. Lawrence River basin. As our contention has been in the past, we believe that a healthy Great Lakes ecosystem and economy can only be accomplished by a credible plan with targets and actions to protect and preserve the watersheds that feed them.

Thank you so much for your attention. I'm happy to answer any questions.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Rees, for your presentation. We've gone to the end of your time, and we'll go on to our next presenter.

Mr. Terry Rees: Thank you.

GEORGIAN BAY ASSOCIATION

The Chair (Mr. Peter Tabuns): The Georgian Bay Association: Mr. Duncanson, you have five minutes. If you'd give your full name for Hansard.

Mr. Bob Duncanson: Thank you very much. My name is Bob Duncanson. I'm the executive director of the Georgian Bay Association. I appreciate the opportunity to be before you to speak in support of the Great Lakes Protection Act.

The GBA, the Georgian Bay Association, is an umbrella group for 20 community associations along the eastern and northern shores of Georgian Bay. We've been advocating for our landowner members since 1916.

When I come to meetings like this, I represent 3,200 properties with about 18,000 individuals attached to those properties. We are in regular contact with our members. They provide us feedback on all initiatives that are going on, so the perspectives that I'll share with you today are very much voter perspectives.

I'm sure that you've heard through the day about the economic importance of the Great Lakes—$4.7 trillion US, as estimated in 2011 by BMO, placing it amongst the top economic regions in the world.

We believe that one of the main engines in that economic success is water. The five Great Lakes combined contain the earth's largest single supply of surface water.

In the Georgian Bay context, from an economic perspective, property owners alone contribute over $100 million annually to local, provincial and federal economies through taxes paid and goods and services purchased. When you add campers, boaters and fishermen to this mix, you get a number that is significantly bigger. Without water in sufficient quantity and quality, this economic input would be threatened.

I propose to you today that the Great Lakes are indeed under tremendous, unprecedented stress. Water levels in the middle lakes hit an all-time record low in January and are still 14 inches below their long-term average.

Climate change accounts for most of the downward pressure. Experts tell us that we can expect to see in the future what we've seen in the past few years, where we get tremendous downpours, one-in-100-year storms that are happening much more frequently. There's a growing realization that as a society we have to get a lot better at managing our water resources and reacting to frequent storms, not only to protect infrastructure but to hold some of that water in our system to support us and our ecosystems during droughts.

Water quality is a growing concern. You've probably all heard about the return of blue-green algae to Lake Erie. What you may not know is that we've seen regular outbreaks of the same kind of algae in parts of the relatively pristine Georgian Bay. When there is an outbreak of this toxic algae, no one can drink the water or swim in it, or even let their pets near it. Excess phosphorus has been identified as the fuel feeding these outbreaks, but there's further research that's needed to figure out a prevention—something that the Great Lakes Protection Act could help with.

Terrestrial and aquatic invasive species are bringing their own challenges: Phragmites, Eurasian water-milfoil, zebra and quagga mussels, and round gobies, to name a few. There's a perfect storm brewing below the placid surface waters of the Great Lakes, including Georgian Bay. You may have read about the thousands of fish and waterfowl that, each year, have died and washed up on beaches like Wasaga Beach. These animals are dying from botulism that's created when mussels, who contain botulism at the bottom of the lake, die and are eaten, and that botulism is bio-accumulated up the food chain through round gobies, predator fish eating the round gobies and waterfowl eating those fish. Again, the problem has been identified, but there hasn't been a remedy identified—another task for the Great Lakes Protection Act.

We also worry about the chemicals of emerging concern.

The Chair (Mr. Peter Tabuns): You have a minute left.

Mr. Bob Duncanson: Thanks.

Class IV septic systems, like those used by most cottagers and municipal treatment facilities, haven't been designed to treat or eliminate many chemicals that are in the human waste stream. Chemical compounds from pharmaceuticals and household products pass right though these systems and into our bodies. We don't know what the future holds. Again, we need to study this.

Our hope is that you, as legislators, will support the Great Lakes Protection Act and that this act will enable us as a society to address these stresses on the important Great Lakes.

The Chair (Mr. Peter Tabuns): Thank you. A last and very brief question to the third party.

Mr. Jonah Schein: Thanks. You've painted a bleak picture of the state of—

Mr. Bob Duncanson: It's a challenge.

Mr. Jonah Schein: Yes. Do you think this is about political will? At the end of the day, we've heard a lot of support for the direction of this legislation, but do we have the resources in place to deal with invasive species, for example?

Mr. Bob Duncanson: Political will and coordination between the feds and the province. It was mentioned—CELA, earlier—we've been riding the federal government heavily on getting that dealt with. The block is up at their end.

We have limited resources, collectively. It's all taxpayer resources, at the end of the day. We have to get a lot better at coordinating provincial and federal spending and initiatives and—

The Chair (Mr. Peter Tabuns): Thank you for your presentation, Mr. Duncanson.

I'd like to thank all the presenters today. This concludes our business.

I want to remind members that the deadline to file amendments with the committee Clerk is on Monday, November 25, at 12 noon.

The committee is adjourned until 9 a.m. on Wednesday, November 27, for clause-by-clause consideration of Bill 6.

The committee adjourned at 1023.

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

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Mr. John Vanthof (Timiskaming–Cochrane ND)

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ISSN 1180-4319

Legislative Assembly of Ontario

Second Session, 40th Parliament

Assemblée législative de l'Ontario

Deuxième session, 40e législature

Official Report of Debates (Hansard)

Wednesday 27 November 2013

Journal des débats (Hansard)

Mercredi 27 novembre 2013

Standing Committee on Regulations and Private Bills

Comité permanent des règlements et des projets de loi d'intérêt privé

Great Lakes Protection Act, 2013

Loi de 2013 sur la protection des Grands Lacs

Chair: Peter Tabuns
Clerk: Valerie Quioc Lim

Président : Peter Tabuns
Greffière : Valerie Quioc Lim

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Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario

Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 27 November 2013

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Mercredi 27 novembre 2013

The committee met at 0803 in committee room 1.

SUBCOMMITTEE REPORT

The Chair (Mr. Peter Tabuns): The Standing Committee on Regulations and Private Bills will now come to order.

The first order of business is the subcommittee report relating to Bill 88 dated November 18, 2013.

Mrs. Donna H. Cansfield: Mr. Chair?

The Chair (Mr. Peter Tabuns): Ms. Cansfield.

Mrs. Donna H. Cansfield: Thank you, Chair. I wondered if we could have an agreement to defer consideration of the subcommittee report for a couple of hours so we can assess the kind of progress that we've been making on this particular bill, considering we have 30-plus amendments. Maybe around 10:10 we could have the discussion on the subcommittee report and then that would help us determine what's going to happen—

The Chair (Mr. Peter Tabuns): Do we have agreement on that?

Mr. Michael Harris:. No. No, I think we should discuss whatever was spoken to in subcommittee addressing Bill 88 first and get that out of the road so we can commence clause-by-clause with regard to Bill 6.

Mrs. Donna H. Cansfield: Well, it would make some sense, when you consider that we have so many amendments in front of us, to just defer the discussion till about 10 o'clock.

Mr. Michael Harris: I think it makes more sense to just get that out of the way first so that we don't have to break in the midst of actually going through clause-by-clause at 10 or 10:15 to deal with this matter. Let's get this matter out of the road and get on to the show with Bill 6. I think that would make more sense.

The Chair (Mr. Peter Tabuns): Ms. Cansfield, I don't think we're going to have unanimity on this—

Mrs. Donna H. Cansfield: I agree.

The Chair (Mr. Peter Tabuns): —so I'll go with the agenda.

Mr. Harris, would you be willing to read out the subcommittee report?

Mr. Michael Harris: Oh, I don't have the subcommittee—do you have the subcommittee report? I buried it away here.

Interjection.

Mr. Michael Harris: Okay, go ahead, Walker or somebody. You were in the subcommittee; you read it.

Ms. Dipika Damerla: Chair, I'd like to move that we postpone consideration of this item.

The Chair (Mr. Peter Tabuns): I'm sorry?

Ms. Dipika Damerla: I move that we postpone consideration of the subcommittee report.

The Chair (Mr. Peter Tabuns): It's a motion. Is there any discussion?

Ms. Dipika Damerla: It's not a motion. As per our understanding, it's—it's a dilatory motion.

Mr. Michael Harris: We were in the midst of—

The Chair (Mr. Peter Tabuns): I'll put the question at the end of this. We've had a discussion—

Mr. Michael Harris: We're in the midst of—

Interjections.

The Chair (Mr. Peter Tabuns): Okay; I'm going with this advice.

I've had a motion to postpone. All those in favour of postponing the consideration of the subcommittee report? All those opposed? It fails. The motion fails. We'll go back to reading the subcommittee report.

Mrs. Jane McKenna: Thank you. Your subcommittee on committee business met on Monday, November 18, 2013, to consider the method of proceeding on Bill 88, An Act to amend the Child and Family Services Act with respect to children 16 years of age and older, and recommends the following:

(1) That the committee meet in Toronto to conduct public hearings on Wednesday, December 4, 2013.

(2) That the Clerk of the Committee post information regarding public hearings on the Ontario parliamentary channel and the Legislative Assembly website.

(3) That the Clerk of the Committee, in consultation with the Chair, place one advertisement regarding public hearings during the week of November 25, 2013, for one day only, in the Toronto Star, prior to the adoption of the subcommittee report.

(4) That interested people who wish to be considered to make an oral presentation contact the Clerk of the Committee by Friday, November 29, 2013, at 5 p.m.

(5) That witnesses be scheduled on a first-come, first-served basis.

(6) That witnesses be offered up to five minutes for their presentation and any remaining time be used for questions from committee members on a rotational basis.

(7) That the deadline for written submissions be Wednesday, December 4, 2013, at 5 p.m.

(8) That the deadline for filing amendments to the bill with the Clerk of the Committee be Monday, December 9, 2013, at 12 noon.

(9) That the committee meet for clause-by-clause consideration of the bill on Wednesday, December 11, 2013.

(10) That the Clerk of the Committee, in consultation with the Chair, be authorized prior to the adoption of the report of the subcommittee to commence making any preliminary arrangements to facilitate the committee's proceedings.

The Chair (Mr. Peter Tabuns): And you so move adoption.

Mrs. Jane McKenna: Yes.

The Chair (Mr. Peter Tabuns): Ms. Damerla.

Ms. Dipika Damerla: I just wanted to point out that it's my understanding that it's very unusual—in fact, highly unusual—to interrupt a bill in the middle of clause-by-clause to take up another issue. I'm just wondering if—

The Chair (Mr. Peter Tabuns): Well, we are not in the middle of a bill. Normally, subcommittee reports are the first item of business.

Ms. Dipika Damerla: But we would be—

The Chair (Mr. Peter Tabuns): If we had started debating the bill, then this would be an interruption, but we didn't start there; we started with the subcommittee report.

Was there any discussion? All those in favour of the subcommittee report? All those opposed? The subcommittee report is adopted; I will cast my vote to move things forward.

GREAT LAKES PROTECTION ACT, 2013

LOI DE 2013 SUR LA PROTECTION DES GRANDS LACS

Consideration of the following bill:

Bill 6, An Act to protect and restore the Great Lakes-St. Lawrence River Basin / Projet de loi 6, Loi visant la protection et le rétablissement du bassin des Grands Lacs et du fleuve Saint-Laurent.

The Chair (Mr. Peter Tabuns): Now we move on to clause-by-clause consideration of Bill 6, An Act to protect and restore the Great Lakes-St. Lawrence River Basin. Please note that I will put the question on consecutive sections that have no amendments together, but members may request to vote on each section individually.

We've received some additional and revised amendments that have been distributed this morning. Please add these amendments to your package. The ones with "R" put on them are revised versions. The ones with "A" are to be inserted after the number beside it. For example, amendment 13A goes after amendment 13. People are comfortable with that? Okay.

Are there any comments or questions before we begin? If not, we'll proceed with section 1, part 1.

We have an NDP motion. Would you like to—

Mr. Jonah Schein: Thank you, Chair. I move that paragraph 1 of subsection 1(2) of the bill be amended by adding "including through the elimination or reduction of harmful pollutants" at the end.

The Chair (Mr. Peter Tabuns): Any discussion? Mr. Harris?

Mr. Michael Harris: Yes, thank you, Chair. I appreciate everyone for being here today.

I couldn't help but notice—and I think I'll take an opportunity at the first, obviously, to state our case on Bill 6. Of course, we all want to do our part to reduce the harmful pollutants in our environment, but this amendment, I think, really brings up the question of the unnecessary duplication that currently exists already. For example, the government already has the Toxics Reduction Act and the Environmental Protection Act, actually, to deal with harmful pollutants.

I'm just not sure if in fact the NDP and the Liberals were spending some time this weekend—I notice that our next government motion is actually identical to the NDP motion, which obviously raises some concerns on a broader scale.

But I think it's important to go back to the actual Toxics Reduction Act that was passed. That was specifically passed to reduce and eliminate harmful and toxic substances. But of course, here we are again, as the Liberals and the NDP are dreaming up new ways to create more legislative overlap, conflict and duplication.

I'm just wondering, perhaps—it's a question for the lawyers, probably, at the end of this. As I had mentioned, the first and second motions are in fact identical. I do have a concern that—there's no concern for the consequences of perhaps, potentially, this amendment here. I think that all we're seeing is good electioneering, really, when it comes to things like this, and not really sound, coherent legislation.

So I actually have a subamendment that I'd like to propose as well, if I can so move that to this.

The Chair (Mr. Peter Tabuns): Is it prepared?

Mr. Michael Harris: Yes.

The Chair (Mr. Peter Tabuns): It's circulated?

Mr. Michael Harris: I'm not sure if it has been circulated. Has it been circulated?

Interjection.

Mr. Michael Harris: Yes, it has been circulated.

The Chair (Mr. Peter Tabuns): We'll just confirm.

Interjection.

Mr. Michael Harris: Yes, that's correct, an amendment to the amendment.

Interjection.

Mr. Michael Harris: Being that we just received these amendments, I guess, yesterday or the day before, we've prepared a subamendment to the amendment.

The Chair (Mr. Peter Tabuns): Okay, we'll recess for five minutes while copies are made and circulated.

The committee recessed from 0813 to 0823.

The Chair (Mr. Peter Tabuns): We resume. Mr. Harris, you have the floor. You've moved an amendment to the amendment. Would you make your motion to amend?

Mr. Michael Harris: Sure. I move that the motion be amended by striking out "including through the elimination or reduction of harmful pollutants" and substituting "including through efforts to eliminate or reduce harmful pollutants by building on and not duplicating existing protections for the Great Lakes-St. Lawrence River Basin."

The Chair (Mr. Peter Tabuns): Thank you. Go ahead.

Mr. Michael Harris: I should have asked legal counsel beforehand, but I just wanted to get your opinion on what effect the initial amendment would have on the law—and I'll ask afterwards, how my amendment—what would those ramifications be, in terms of duplication—

The Chair (Mr. Peter Tabuns): Counsel?

Ms. Tara Partington: Well, I don't think I could comment on the duplication issue because I'm not a subject matter expert in all of the environmental legislation that we have that would deal with this topic. The NDP motion that adds "including through the elimination or reduction of harmful pollutants"—the word "including" typically is just used to illustrate an example of what's already been offered, which in this case in paragraph 1 of subsection 1(2) is protecting "human health and well being through the protection and restoration of the ecological health of the Great Lakes-St. Lawrence River Basin." So I would interpret that as being an example of how that could done.

Mr. Michael Harris: And then my amendment to that—any ramifications or effects on—

Ms. Tara Partington: I guess that that's communicating the intent not to duplicate existing protections, but I don't think that I could comment on what effect that would have legally, necessarily. Probably a subject matter expert in the body of environmental law could provide a more detailed explanation.

Mr. Michael Harris: Is that just something that we would ask legislative research to comment or report back on in terms of how the duplication—particularly, of this amendment—what other impacts on other legislation it would have? Do we have legislative research here or no?

The Chair (Mr. Peter Tabuns): Do we have legislative research here?

The Clerk of the Committee (Ms. Valerie Quioc Lim): Not research, but there's ministry staff.

The Chair (Mr. Peter Tabuns): We do have ministry staff present.

Mr. Michael Harris: But not legislative research?

The Chair (Mr. Peter Tabuns): We've actually done most of the research we're going to do. We've heard the presentations. We're at the point of actually debating the bill.

Mr. Michael Harris: There's no legislative research, as typically is here? Is that the case?

The Clerk of the Committee (Ms. Valerie Quioc Lim): Not for clause-by-clause.

Mr. Michael Harris: Okay. All right.

The Chair (Mr. Peter Tabuns): So you've received your answer from counsel. Did you have further comment?

Mr. Michael Harris: Not at this time, I guess.

The Chair (Mr. Peter Tabuns): Okay. I have Mr. McNeely, who wanted to speak to this.

Mr. Phil McNeely: First thing, we do have ministry staff—legal—here, who could be consulted.

To speak to the amendment, many of the respondents to the consultation, which was quite large, have repeated the requirement. We're supportive of the NDP motion and we do not think that the amendment is necessary. It's duplicative. Our wording is consistent with the Toxics Reduction Act. I think that there's no reason for the amendment at this time.

The Chair (Mr. Peter Tabuns): Sorry. Are you speaking to Mr. Harris's amendment of the amendment?

Mr. Phil McNeely: Yes.

The Chair (Mr. Peter Tabuns): Okay.

Mr. Phil McNeely: The other point I wanted to make was that in the future, if we do have amendments that weren't included in this morning's package—we would appreciate if it would be read into the—just read it into the record, the amendments, and deal with it that way rather than having five-minute recesses.

The Chair (Mr. Peter Tabuns): I'll go amendment by amendment, Mr. McNeely.

Mr. Phil McNeely: Thank you.

The Chair (Mr. Peter Tabuns): And I understand the spirit in which you make your comments.

Any further discussion? Mr. Harris.

Mr. Michael Harris: Yes, just back to Mr. McNeely's. Of course, there was an aggressive timeline pertaining to the submission of these amendments. In fact, we worked over the weekend. We just received this initial batch of amendments, perhaps, Monday afternoon at some time. It's Wednesday morning. So do you know what? We've just had an opportunity to file any of the amendments, so we'll do our best to prepare things in the best time as appropriate.

But I do think it's important that—although Mr. McNeely, you were speaking to the initial amendment, not my subamendment—but your comments to the initial amendment are, and I think it's important that—

The Chair (Mr. Peter Tabuns): Can we just focus on one item at a time?

Mr. Michael Harris: Was he speaking to the amendment or the initial—

The Chair (Mr. Peter Tabuns): No, he was talking to your amendment.

Mr. Michael Harris: Okay. I just want to re-emphasize that it's important that science guides our decision-making about protecting the environment. I think we've seen far too many times the NDP and the Liberals work together to advance environmental ideology, really, instead of environmental science. We need to

protect the environment; I think we can all agree on that—at least I hope we can; I know I do—but we need to balance those environmental concerns with the economic ones.

Through this subamendment that I've raised, I think it's also important that, as mentioned, the acts that are already in place—the Toxics Reduction Act, the Environmental Protection Act—that my subamendment would obviously deal with those harmful pollutants, but not duplicating the existing protections that are already in place.

The Chair (Mr. Peter Tabuns): Okay. Mr. Harris, you've concluded?

Mr. Michael Harris: Yes.

The Chair (Mr. Peter Tabuns): Any other discussion? Mr. Walker?

Mr. Bill Walker: I'm relatively new to all of this, so I'm just wondering if MOE staff can provide some clarity that this amendment will ensure there's no duplication. Our concern is that there's already enough legislation in place for the protection.

One of the biggest things that I hear back from my constituents is that they don't want to see 15 different ministries—we're always tripping over each other. One piece of legislation refutes another, and another ministry. Our biggest concern is, when we're doing things like this, that's a huge, monumental issue, the Great Lakes. Obviously, we're in support of the environmental health and sustainability of the lakes, but we need to ensure that there is no duplication, ministry to ministry, which is actually going to conflict and confuse and slow down the process.

0830

Can the ministry provide some clarity on that, so that we are assured, before we go to any type of vote, that there is no duplication?

Mr. Phil McNeely: Chair, we called the question.

The Chair (Mr. Peter Tabuns): I'll take a vote on—

Mr. Bill Walker: I had still asked for—

The Chair (Mr. Peter Tabuns): Pardon?

Mr. Bill Walker: I had asked if the ministry could provide that. So before he can do that, I would like to have the answer to that, if I could, Chair.

The Chair (Mr. Peter Tabuns): Well, as he still has the floor, you can't call the question until the floor has been ceded.

You have a question for—

Mr. Bill Walker: For ministry staff. I've asked if there's a way that we can have some information provided to ensure that there's clarity, that this amendment is not going to allow for duplication or confusion between various acts that are out there—

The Chair (Mr. Peter Tabuns): If ministry staff could come forward, please.

Mr. Bill Walker: —or the bill. I mean, some of the submissions in here are already saying that there's a lack of clarity in a number of areas with regard to targets and what they're actually saying. Before I'm prepared to vote on behalf of my constituents, I want to understand how this has been constructed and that they've given great thought so that they're not going to overlap different ministries, different pieces of legislation, and we're going to spend all of our time talking about the semantics as opposed to, are we truly doing anything to protect the Great Lakes.

The Chair (Mr. Peter Tabuns): If you would give your name for Hansard, and please address the questions.

Mr. James Flagal: Hi. My name is James Flagal, and I am counsel with the Ministry of the Environment, legal services branch.

The question was about whether or not this particular act would provide more duplication over what is existing law. The way that this particular legislation works, similar to the way the Lake Simcoe Protection Act works, is through existing statutes. What I mean by that is, as you know, there's something called a geographically focused initiative. That is a document that can seek to protect, let's say, an area of the basin to deal with a particular issue like, let's say, nutrient loadings. It does not in itself create a whole new layer of regulation. What it does is, it directs the way decisions under other acts can be made.

I'll give you an example. It may be appropriate in a particular area to say that in order to protect the lake from nutrients, just like what happened on Lake Simcoe—as you know, there was a nutrient problem in Lake Simcoe, so it was important to have a shoreline policy in that particular area, which meant that you had specific setbacks from development. That plan did not create a whole new layer. It basically directed the way Planning Act decisions should be made.

Or, in a coordinated fashion, what's also important from a nutrient loadings perspective, are contributions, for instance, from sewage treatment plants. So it directed the way phosphorus loading should be set in sewage treatment plant approvals.

In that respect, actually, the act attempts to "act," for lack of a better word. It attempts to basically direct the way decisions are made under other acts in a coordinated way, in order to basically achieve a particular objective—in the particular instance I am basically saying, let's say, for the reduction of nutrients.

Mr. Bill Walker: But can you clarify, then? Does it supersede any of those other acts? Is it the ultimate decision power? Is it the ultimate legislation that says, "You shall do this"?

Mr. James Flagal: When you establish a geographically focused initiative for that particular area—if the decision is made through the particular development of that particular initiative that the sewage treatment plants should be reducing, in a coordinated way, their phosphorus loadings—then yes, there's a later provision that says if there's a policy in the geographically focused imitative that directs sewage treatment plants to reduce their loadings to a certain amount, then the approval would have to conform to that particular direction in the policy.

Mr. Bill Walker: So can you clarify for me—and again, I apologize; I'm relatively new at all of this. When you have something like the sewage treatment plant, why would existing legislation not already cover this?

Mr. James Flagal: Because existing legislation is purely discretionary in nature. What I mean by that is, when you go and apply for a particular sewage treatment plant approval, the director can put what conditions the particular director is going to put in, and all of those are subject to appeal to the Environmental Review Tribunal.

If the director decided, "We are going to put in a policy saying that we're going to reduce the sewage treatment plant loadings by 50%," and if the particular proponent decided, "Well, that's unfair," they could go to the tribunal and argue and say, "That's unfair. Where's the policy for this? Where's the backing for this?"

What happens in this particular case is, it's such an imperative to basically reduce pollution loadings in that particular plant—just like what happened—it's basically a policy coming in and saying, "No, it is the policy that you have to reduce your loadings by 50%, and that is going to be the direction for these particular sewage treatment plants."

In that respect, because those plants have been identified as something that needs to be reduced, that's what the policy has the authority to do.

Mr. Bill Walker: So you're kind of, I think, clarifying a little bit of why I have the concern. If I heard you correctly, you're suggesting that there is an appeal process, that a proponent or an opponent can come back and say, "I'm concerned. I have these issues." You have a body already built. You have legislation that's already there to deal with this. So if we're doing governance properly, you should have that appeal process; you should be able to have the discussion.

We're all doing our best to preserve and conserve and sustain our Great Lakes. I'm concerned that this one actually can be more prescriptive and say, "We have a special interest group that says, 'We want to do this,' and you shall abide by this," regardless of what the consequences are to that group that has to implement it.

I become very concerned when particularly there's a guardians' council that is now going to be yet another body that can come in and have more concern, more power than the actual legislation.

Mr. James Flagal: Once again, this particular type of document is no different—is very similar to other types of provincial plans. Oak Ridges moraine, for instance, is a type of plan that, as you know, once it's put in place, Planning Act decisions need to conform to that particular plan. So if it says you can't have development in a particular area, then the municipal planning decisions need to conform to that plan.

Mr. Bill Walker: And when—

Mr. James Flagal: So that's why in this particular respect—I'm so sorry—it's a similar sort of thing where there is this higher level policy that has basically dictated the conformity standard, that this policy needs to be followed because there's this important sort of policy objective that's being sought.

Mr. Phil McNeely: Point of order, Chair.

Mr. Bill Walker: So can you clarify in your process, then—

The Chair (Mr. Peter Tabuns): Excuse me, Mr. Walker. I have a point of order from Mr. McNeely.

Mr. Phil McNeely: The discussion and questions here are not pertinent to the motion that we're talking about. It's on another subject. I would like to call the question.

Mr. Bill Walker: I would suggest—

The Chair (Mr. Peter Tabuns): I'm afraid I won't accept that. It does relate to the question of pollution and the determination of duplication. Mr. Flagal has been pretty clear in describing what's before us and what isn't. When the floor is gone, if you wish to make that motion, I'm happy to entertain it, but I don't think it's a point of order.

Mr. Bill Walker: Thank you, Mr. Chair. Actually, I find that a little bit interesting. I'm only going to make a decision if I have the information to make the best judgment that I can. So I believe this is absolutely pertinent to me being able to do this and to understand the intent and, in fact, the actual impact that this is going to have, once we make a decision.

Thank you very much for your points so far. I do have one further one. Will your amendment include an appeal process? Because what I'm hearing is, in our existing, we have an appeal. I want to ensure that, again, is there an ability, or is this going to be a very prescriptive "we shall say" and "you shall do"?

Mr. James Flagal: Nothing in this appeal takes away the appeal right in this provision. This is a purpose provision. In this legislation, nothing takes away appeal rights. Nothing does. Appeal rights still exist to the tribunal, and the tribunal will have before it, if there's a GFI with this type of policy before it as well—so, nothing does.

The final thing is, there are motions later on that deal with this whole issue of duplication—how to make sure that the GFI does not duplicate—and those can be spoken to, and that's where that kind of substantive sort of provision should likely be.

Mr. Bill Walker: Thank you. And just a further point of clarification: You referenced in there the Planning Act, perhaps just as an example, but it's back to my understanding of this. If this amendment was accepted and the legislation was to go through, can this supersede the Planning Act? Will this supersede the Planning Act?

Mr. James Flagal: I'm not sure if I understand this, because it's not the Planning Act per se that's being superseded. It's smaller. It's decisions under the Planning Act. I guess when I say it's not being superseded, it's a policy—if you're talking about the particular act versus other acts and that stuff, there's conflict—but just quickly, nothing is superseding the Planning Act. It works through the Planning Act. If there is a decision that is going to be made under the Planning Act by a planning body, and there is a GFI in place, their decision would

need to conform to that particular policy, if there's a Planning Act policy.

Mr. Bill Walker: Sorry, conform to the Planning Act requirement or to this legislative requirement?

Mr. James Flagal: The provision says that decisions under the Planning Act need to conform. This is similar to the greenbelt, Oak Ridges and other legislation where you have a document in place, and it can basically specify policies to which decisions under the Planning Act need to conform. So that's very similar to other pieces of legislation.

Mr. Bill Walker: I'll pass to my colleague, to see if there's anything further.

Mr. Michael Harris: I just have a quick question. What section of the act actually deals with the appeal process within—

The Chair (Mr. Peter Tabuns): Mr. Harris, we're talking about—

Mr. Michael Harris: I just—okay, I'll have to—

The Chair (Mr. Peter Tabuns): How does this refer to your amendment?

Mr. Michael Harris: Well, he brought it up in his comments, so I want to just clarify what section of the—

Interjection.

Mr. Michael Harris: Sorry?

Mrs. Donna H. Cansfield: We're just on the amendment to the amendment.

Mr. Michael Harris: All right. I'll ask him later, then.

The Chair (Mr. Peter Tabuns): I don't see any further discussion.

On the subject of Mr. Harris's amendment to the amendment, all those in favour? All those opposed? It fails.

We go back to the original amendment.

Mr. Jonah Schein: Thank you, Chair. I'd just like to speak briefly to the original amendment, and I think it is important to explicitly *[inaudible]* reductions as part of the purpose of the act.

I won't take much time to comment, but for people who are visiting today, I would like to be clear about what's happening here today, which is that we have a government that has failed to move this important legislation through. It was first introduced months—over a year ago, in fact. We had a big photo op down at Lake Ontario, and nothing has moved here. They have not called it forward for debate for months and months and months, and they're trying to rush it through, and they've bungled their own agenda, and we have an opposition party here—

The Chair (Mr. Peter Tabuns): Mr. Schein?

Mr. Jonah Schein: Yes?

The Chair (Mr. Peter Tabuns): Please speak to your amendment.

Mr. Jonah Schein: Thank you. Just to be clear, this is going to move very, very slowly, and I do apologize. Just be patient, because we're committed to moving this act forward and getting these amendments through.

The Chair (Mr. Peter Tabuns): Any further discussion? Seeing none, all those in favour?

Mr. Michael Harris: Excuse me. I'm just wondering if we can take a 20-minute recess to go through this amendment with our colleagues.

The Chair (Mr. Peter Tabuns): Yes, it's before the vote. You have the right to ask for a 20-minute recess.

The committee recessed from 0842 to 0902.

The Chair (Mr. Peter Tabuns): The 20-minute recess having come to a close, we are now on the vote.

All those in favour of the amendment, please raise your hands. All those opposed? The amendment is carried.

Amendment 2—

Mr. Phil McNeely: Mr. Chair, we withdraw this motion. It's identical to motion 1, which we just passed.

The Chair (Mr. Peter Tabuns): Thank you. We go to amendment 3, a government motion.

Mr. Phil McNeely: I move that paragraph 4 of subsection 1(2) of the bill be struck out and the following substituted:

"4. To advance science and promote the consideration of traditional ecological knowledge relating to existing and emerging stressors, such as climate change, in order to improve understanding and management of the Great Lakes-St. Lawrence River Basin."

The Chair (Mr. Peter Tabuns): Any discussion? Mr. McNeely?

Mr. Phil McNeely: This motion would modify the purpose of the act to promote the consideration of traditional ecological knowledge. This motion would recognize that traditional ecological knowledge, in addition to Western science, can provide a valuable source of information to support decision-making. The motion responds to the requests from First Nations and Métis communities and environmental organizations.

The Chair (Mr. Peter Tabuns): Any further discussion? Mr. Harris?

Mr. Michael Harris: Yes. I'll just re-emphasize the fact that it is important to ensure that science really guides our decision-making. Far too often, we see that politics guides the decision-making process when it comes to protecting our environment. We need to balance the environment, again, as what I had said before, with the economic ones that are out there.

I also think it's important that we work with our First Nations and Métis communities to understand their perspective on how traditional ecological knowledge can help us understand our environment. I noticed my colleague had just asked if there was a submission by the Chiefs of Ontario and aboriginal, First Nations, and Métis groups. I said there wasn't, because they did protest this process of the government really ramming this through the Legislature.

I think it's an important question of the ministry to ask what process they undertook through the process of not only Bill 100, but Bill 6, in consultation with First Nations, to get their feedback on such an amendment,

such ecological knowledge? I don't know if the ministry official could answer that question—

The Chair (Mr. Peter Tabuns): You are asking? Okay.

Mr. Michael Harris: I am asking them to tell me—

The Chair (Mr. Peter Tabuns): Mr. Flagal, could we have you—

Mr. Michael Harris:—what process they undertook.

Mr. Phil McNeely: I can respond to that partly, if—

The Chair (Mr. Peter Tabuns): If everyone's agreeable—Mr. McNeely, if you could respond to that question on the part of the government?

Mr. Phil McNeely: The proposed legislation recognizes that First Nations communities maintain a spiritual and cultural relationship with the water. The proposed act already incorporates requests from aboriginal peoples in five important ways.

The preamble of the proposed act recognizes the aboriginal communities within the Great Lakes-St. Lawrence basin and that they have important connections to the basin.

The guardians' council: The proposed act requires that the Minister of the Environment invite, as appropriate, representatives of the interests of aboriginal communities to be part of the guardians' council.

Opportunities for engagement on initiatives: First Nations and Métis communities would be engaged on the development and implementation of geographically focused initiatives.

The proposed act states that nothing in it "shall be construed so as to abrogate or derogate from the protection provided for the existing aboriginal and treaty rights of the aboriginal peoples of Canada as recognized and affirmed in section 35 of the Constitution Act, 1982."

The proposed act will recognize that "First Nations and Métis communities that have a historic relationship with the Great Lakes-St. Lawrence River Basin may" contribute "traditional ecological knowledge for the purpose of assisting in anything done under" the proposed act.

So there have been discussions with the First Nations and the Métis communities throughout the process of developing this legislation.

The Chair (Mr. Peter Tabuns): Thank you, Mr. McNeely.

Mr. Michael Harris: While I appreciate Mr. McNeely's answer, my specific question, and I hope that the ministry will be able to answer this, is actually the consultation process, before the bill was tabled in the Legislature, pertaining to First Nations and the traditional ecological knowledge that they would bring to the table.

As I mentioned, the Chiefs of Ontario have protested this bill by not submitting a submission, because of the lack of consultation. So I'm asking the ministry to explain what consultation process occurred with them before the bill was tabled, not with specifically what's in the bill.

Mr. Phil McNeely: I think their protest, Chair, was in relationship to notification on the presentations, which occurred, I think, last week. This has been consistent right through the process, that consultations have been had with First Nations. They were protesting not having enough time to make a presentation.

Mr. Michael Harris: Again, I appreciate your answer with regard to notice for last week, but I'm talking about the consultation that the ministry had with the First Nations community pertaining to development of the bill, surrounding the traditional ecological knowledge that they could and can provide. So I ask the ministry to come before the committee and explain that to us.

Chair, I don't know if you can—

The Chair (Mr. Peter Tabuns): No. If I could ask—

Mr. Phil McNeely: We had 10 meetings, Mr. Chair, during the process. It's a continuous process that the government has been keeping the First Nations communities involved. This one issue of not having sufficient time on the notice for last week's meeting was acknowledged by the ministry.

The Chair (Mr. Peter Tabuns): Thank you, Mr. McNeely. Mr. Walker?

Mr. Bill Walker: Could I ask for a little bit of detail of what you're suggesting traditional ecological knowledge would be? What would constitute that?

The Chair (Mr. Peter Tabuns): Ms. Cansfield?

Mrs. Donna H. Cansfield: I'd just like to share with the committee, if that's possible, that the idea of ecological and traditional knowledge has been an ongoing issue, certainly when I was Minister of Natural Resources, with the Mohawk First Nation in particular—I'll use that example—in the St. Lawrence River basin. As a matter of fact, there's an international organization that has been, for some years, currently looking at the value of that knowledge as it pertains to natural resources around the world, and the value of aboriginal First Nations' basic knowledge and how they can work together.

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This has been an ongoing process for many times. Often, the relationship—whether it's dealing with fisheries, hatcheries, whether it's dealing with traditional hunting, whether it's dealing with herbs and plants. The First Nations have been very involved in the promotion and how it can be a part of working with, whether it's invasive species or existing species, protection of species, and in particular for the Great Lakes, because they realize how important this is because they have such a strong interest in the basin and the water itself, because they are the protectors of the water. So this has been an ongoing conversation, discussion, if you like, with the First Nations for the last 10 years that I've been involved in this government.

Mr. Bill Walker: Thank you very much. It's very helpful to have someone of your knowledge, history and experience, me contrasting the other way, being the new guy on the block. I don't have all that history, so that's helpful, Ms. Cansfield.

The question I guess, then, for me, and I run into this often in my riding when it comes back to some of the constitutional treaty types of concerns, is how binding it

is. Sometimes I think, as much as all of us I believe want to respect and honour the intent and the spirit of those treaties, again, what's the reality of how much it can actually bind the ability to move forward in today's world, and how we can ensure that we're working in partnership, in tandem with First Nations to conserve and preserve and sustain our watersheds without actually negating that there's some old clause from 100 years ago that we're still trying to deal with. The world has changed. We have a lot of different environmental impacts we have to deal with that 100 years ago or 125 years ago we didn't have.

So can you provide some clarity for me and some assurance that there's nothing that's binding in there? Using fairly vague words: "for consideration of"—well, what does "consideration" mean? One of the concerns that I certainly have, and some other First Nations, is "the duty to consult," and yet we can never get a definition of what "consult" truly means. I just don't want us to go down a path again where we're putting in vague words and down the road, once the legislation, if and when it's passed—that we're actually going to come back and say, "What does that mean?" and now we're in a bind where we can't move forward because we didn't define enough of those vague words.

Mrs. Donna H. Cansfield: If I may, I'm just going to say in response that certainly the whole value around the issue of water with First Nations is paramount; it's absolutely paramount. The relationship, certainly, that I have had over the years in terms of traditional knowledge has been absolutely essential in development of policies, especially around the water usage and especially around Great Lakes, because the fisheries are just as important to them as to us. As you know, Lake Erie is the largest freshwater commercial fishery in the world, so it's important to be able to know and understand that knowledge and to incorporate it into good policy-making. I have not had a situation where that has not been supported throughout in the discussions. Are there broader federal issues? Probably, but I've always found that the First Nations are very willing and supportive of sharing their knowledge and we, as governments—all governments, I suspect—are very receptive of that knowledge in terms of promoting good policy for fresh water, because we all rely on that water; 80% of it is our drinking water. So their knowledge is essential.

It has never been an issue that I've been aware of. I appreciate, as I said, the broader federal issues, but I see them very supportive and very involved in good policy-making. I understand there was an issue more about date, and if you actually read the letter from the First Nations, they always say they're very cooperative. They want to get involved. They just had a challenge around the date, and they've asked for more hearings.

Mr. Bill Walker: I certainly appreciate and, again, acknowledge your experience in the ministerial roles you've held. Certainly, in some local issues, I haven't always had that exact same, and there's lots of talk about the spirit of cooperation and "we want to." But at the end of the day, coming to the table doesn't always work that way. All I'm trying to do is safeguard all of the people of Ontario so we don't go down a road where vagueness of words allows us to do nothing about actually making change. So I want to ensure that. I believe that's where my colleague was really going, too, with his question.

I would ask yet again that the ministry provide further detail of the type of dialogue and what specific issues they brought up so that we're addressing those and so that we don't get ourselves in a position where we pass legislation and have to retract back because we didn't do proper consultation.

Mr. Michael Harris: Chair, I don't know why—

The Chair (Mr. Peter Tabuns): Just one second. Mr. Walker has asked a question. Is there a response?

Mr. Phil McNeely: Well, Chair, we have been working with the First Nations in traditional ecological knowledge workshops. There has been a lot of consultation with the First Nations, and traditional ecological knowledge provides value in understanding the species, ecosystems, sustainable management, conservation use. We feel that we've been doing a lot of work there.

Mr. Bill Walker: To the ministry staff specifically: Did they provide a definition, a black-and-white definition, of what "traditional ecological knowledge" means?

Mr. Phil McNeely: I would have to ask staff that.

Mr. Bill Walker: I'll repeat the question, Chair?

The Chair (Mr. Peter Tabuns): Yes.

Mr. Bill Walker: To ministry staff, in your discussions, in your consultations, in your briefings, did you receive a definition of what "traditional ecological knowledge" defines? If so, would you please provide it?

The Chair (Mr. Peter Tabuns): Mr. McNeely?

Mr. Phil McNeely: Traditional ecological knowledge is accumulated, living knowledge built upon the historic experience of the aboriginal peoples, and we've done that consultation with them.

The Chair (Mr. Peter Tabuns): If Mr. Walker is finished, I have Mr. Schein, who has been trying to get in. So Mr. Walker?

Mr. Bill Walker: Thank you for that. That still is pretty vague in my world, if we get into a situation where we're going to have to debate what that really means and what we're being bound by. Legislation that we put in place for this province has to be very clear and very clearly articulated so that there's no grey area in the middle. That's my concern with some of this: It's very vague. Some of our people who have made submissions—that's one of their biggest concerns: the vagueness. In some cases, they're talking about targets. They talk about the word "target," but they don't put an actual quantifiable target.

I'm not trying to be problematic here. I'm just trying to ensure that we represent the submissions that we've received and ensure that we have clarity and that we have definitions so that all of us can walk out of this room and say, "We did our due diligence. We do understand exactly what the spirit of the intent was, and we've defined it in a very black-and-white manner." I still find

that that definition that was just provided is still pretty vague, if we get into a situation where someone challenges it down the road.

The Chair (Mr. Peter Tabuns): Okay. Thank you very much.

Mr. Schein.

Mr. Jonah Schein: Thank you, Chair. This is a motion that we support, and I'd like to call the question.

The Chair (Mr. Peter Tabuns): Well, you get to say one thing or you get to call the question; you don't get to do both. So I hear that you support it. You'll have to put your name down on the list for when I come back around.

Mr. Michael Harris: Chair?

The Chair (Mr. Peter Tabuns): Mr. Harris.

Mr. Michael Harris: Again, while I appreciate the government's answers on the consultation, I think it is important to clarify and get the ministry staff to come forward to the committee and explain the consultation process that occurred. As I had mentioned, the Chiefs of Ontario have protested this bill by not providing a submission because of the lack of consultation.

Now, I know the parliamentary secretary was not the parliamentary secretary when the initial Bill 100 was brought forward to the House, so it actually precedes him with regard to this. I'm curious as to why the government will not allow the ministry to come forward and answer that simple question that I have, to clarify. I know that you've got it in it, but I'm asking what consultation process happened with First Nations groups prior to the bill being built?

Mr. Phil McNeely: Chair?

The Chair (Mr. Peter Tabuns): Mr. McNeely.

Mr. Phil McNeely: In response to that, we held 14 listening sessions prior to introducing any legislation with municipalities, First Nations and Métis communities and stakeholders from the environmental, tourism and agricultural sector throughout the Great Lakes basin. We conducted six stakeholder workshops after proposed legislation was introduced in 2012 in communities in each of the lakes. We also held over 17 focus meetings with our Great Lakes partners, including AMO, conservation authorities, Conservation Ontario, environmental groups, industrial developers and the public. We held four First Nations and Métis engagement sessions after the proposed legislation was introduced in 2012. There has been a great deal of consultation with the First Nations, and the wording in the act reflects that.

Mr. Michael Harris: All right. My next question to you, then, would be: Why is the government not allowing the public servants to come before this committee and answer the questions that I have? Can you answer me that question?

The Chair (Mr. Peter Tabuns): You can ask, but—

Mr. Michael Harris: Did I get an answer?

Mr. Phil McNeely: Can we call the question?

The Chair (Mr. Peter Tabuns): Actually, Ms. Damerla was ahead of you on that, in terms of the speaking order.

Mr. Michael Harris: So I didn't get an answer.

The Chair (Mr. Peter Tabuns): You asked; you didn't get an answer.

Mr. Damerla.

Ms. Dipika Damerla: Chair, I'd just like to say that the parliamentary assistant is the government, and he is here to respond to any questions you have, and he's doing an excellent job. So I don't see what the issue is. But the bigger issue is, I echo MPP McNeely's suggestion that we call the question to a vote.

Mr. Bill Walker: Chair, can we have a recess to be able to consult before we do our vote?

Ms. Dipika Damerla: Chair?

The Chair (Mr. Peter Tabuns): We don't have a vote called yet. I have to see if there's further debate.

Is there further debate? None.

Ms. Dipika Damerla: But I would like to make a point, and I'd like it to be in the record that it's the second time they're asking for a 20-minute recess. There is, Chair, I believe, a fine line, or actually quite a clear line, between thoughtful deliberation and foot-dragging. What we are seeing from the opposition today is essentially doing everything they can to stall the passage of this bill—

The Chair (Mr. Peter Tabuns): Ms. Damerla—

Ms. Dipika Damerla: Let me finish. I want this on the record, Chair. You know, this bill was passed six weeks ago. The opposition didn't show up for subcommittee meetings on three different occasions, and we're very disappointed.

The Chair (Mr. Peter Tabuns): Ms. Damerla, I have a point of order called.

Mr. Michael Harris: On a point of order, Chair, with regard to standing order 23(i), the member is imputing motive, which I believe is against the standing orders.

The Chair (Mr. Peter Tabuns): She is making an argument, and frankly she needs to wrap up the argument.

Ms. Dipika Damerla: Thank you, Chair. Just to finish my thought, this bill passed second reading six weeks ago. We could have been doing this in committee six weeks ago; the opposition didn't show up for subcommittee three times. So we take real exception to the idea that the government was holding this back. We'd like to just get it done. Thank you.

The Chair (Mr. Peter Tabuns): You're not speaking to the amendment. Mr. Walker?

Mr. Bill Walker: Mr. Chair, in fairness to myself on this committee, we just received some of these submissions Monday afternoon. My job is to represent the people, the constituents of Ontario, certainly those that have concerns with the legislation, regardless of how long it has been tabled and how quickly the government wants to expedite this and steamroll it through, despite our concerns that there's already legislation that could be doing the work that this is supposedly going to do. I think it's only appropriate that we actually have time to consult with my colleagues and ensure that I understand what I'm going to be voting on.

The Chair (Mr. Peter Tabuns): If there is no further debate, I will go to the question.

Mr. Bill Walker: I would ask for a 20-minute recess to be able to review, Chair.

The Chair (Mr. Peter Tabuns): A 20-minute recess granted.

The committee recessed from 0922 to 0942.

The Chair (Mr. Peter Tabuns): The meeting will come to order. We will go to the vote on amendment 3.

All those in favour? All those opposed? It's carried.

Shall section 1, as amended, carry? Carried.

Section 2: Shall section 2 carry? We have no amendments. Carried.

Section 3: We have PC motion 4.

Mr. Michael Harris: Subsection 3(1) of the bill: I move that the definition of "designated policy" in subsection 3(1) of the bill be struck out.

The Chair (Mr. Peter Tabuns): Any discussion? Mr. McNeely?

Mr. Phil McNeely: The government does not support this motion. This definition is needed in order to provide for legal effects of policies. Legally effective policies are necessary to coordinate consistent approaches across the watershed and to address cumulative impacts. This definition is similar to that found in the Lake Simcoe Protection Act, which all parties supported. We have heard through our consultation of the need to take action in the Great Lakes through new tools. This motion would remove these tools.

The Chair (Mr. Peter Tabuns): Thank you. Further discussion? Mr. Harris?

Mr. Michael Harris: Thank you, Chair. You know, it's funny that the member mentioned the Lake Simcoe act, because that was actually dealt with through the Legislature. What really troubles me about this piece of legislation is that it sets up a process to create massive provincial policy changes without the say of the Ontario Legislature.

The massive changes that can be implemented using designated policies under the proposed act should be dealt with in the Legislature, just like, as the member mentioned, the Lake Simcoe act. That was an act that the government put forward. They actually stole legislation of a private member, Garfield Dunlop, and made it government legislation, but they actually used the legislative process to deal with such an important issue.

Although some may not agree with this law, the comprehensive policy changes undertaken in the legislation were dealt with in an appropriate manner, because the people's representatives—that being us—at Queen's Park were consulted and made the decision on the matter on behalf of the people. But of course, here we are today watching the Liberals attempt to pass a bill, with, of course, the enthusiastic support of the NDP, to centralize power to the executive.

I think the NDP should be concerned about that, the centralization of those decision-making powers. In fact, I'm obviously very, very surprised by the NDP's position on the matter. As the third party, I would think that they'd want to create a process that wouldn't actually block them out of the decision-making process. I go on to say that they're likely more than willing to forfeit their voice to the Liberals or the executive committee, and I'm not sure if there's maybe more of a formal coalition agreement that we don't know about here, but it would seem—

Ms. Dipika Damerla: Chair?

The Chair (Mr. Peter Tabuns): Ms. Damerla.

Ms. Dipika Damerla: I have a point of order. If I could ask, under section 23, I believe, that MPP Harris speak to the amendment being proposed and not cast aspersions and—

Mr. Michael Harris: Oh, I'm speaking directly to the—

Ms. Dipika Damerla: No, you're not.

The Chair (Mr. Peter Tabuns): Ms. Damerla, I think, does have a point, Mr. Harris. If you could focus on your amendment.

Mr. Michael Harris: Well, I'll reiterate, then, my amendment of striking the designated policy definition, and it's because this legislation sets up a process to really create massive provincial policy changes without the say of the Ontario Legislature. That's why I'm striking this "designated policy," because these changes could be implemented using the designated policy, so I'm concerned about that.

As the member had mentioned, the Lake Simcoe act that was brought before the Legislature, I believe that is the process by which major initiatives should be brought forward to the Legislature, allowing an opportunity for Ontarians to be able to go through the legislative process and not centralize the decision-making abilities at the executive committee, which the NDP are supporting. I find that troublesome; my constituents do. That's why I'm proposing to strike the "designated policy" definition out of the bill. As I was saying—or at least we think that representative democracy is important—

Ms. Dipika Damerla: Chair, a point of order.

The Chair (Mr. Peter Tabuns): Excuse me. Ms. Damerla?

Ms. Dipika Damerla: Chair, I don't believe that MPP Harris is adding anything new to his argument. He has made his point, and he's repeating the same thing. It's a circular thing. There are no new ideas coming out of that, so if you could please—

The Chair (Mr. Peter Tabuns): Ms. Damerla, I will continue to listen, and if I see ongoing repetition, fair enough, but for the moment—Mr. Harris, please continue.

Mr. Michael Harris: I want to reinforce the reason why I'm proposing this amendment. This is a major part of this. If you look back to the initial stages of the Lake Simcoe act that the member referenced and the processes by which that was brought forward—we're talking about making substantial changes or initiatives within the act, and I'm just saying that those initiatives should be brought forward to the Legislature, as the Lake Simcoe

act. The designated policy would basically forfeit those initiatives from coming through the legislative process.

I think it's important that we not sit here and attempt to create a legislative process outside of the Legislature. Any initiatives developed with municipalities, stakeholders should be brought to the Legislative Assembly as a bill. It should be debated in the Legislature, giving stakeholders a proper venue or opportunity to have their say, to be debated and be passed in this House.

Again, my amendment would be removing that definition to centralize the decision-making and remove the legislative process and the members from the whole outcome, similar to what went through with the Lake Simcoe act.

I guess on that note, and I'm happy to ask a question of the ministry really, asking them why they added this "designated policy" in? What difference—not what difference but to educate the members, including my colleagues, on why they've added this "designated policy" into the bill, unlike using the Lake Simcoe act and the legislative process. Why now use this versus the Lake Simcoe act? So I'd have that question of the ministry as to why that process was used now, unlike the Lake Simcoe act?

The Chair (Mr. Peter Tabuns): Would the government like to respond?

Mr. Phil McNeely: Well, the Lake Simcoe Protection Plan is enabled by the act. The plan is approved by cabinet. The identical process is proposed here. The act requires extensive consultation already, lots of checks and balances. The act is bottom-up; it involves local groups. This definition is similar to that found in the Lake Simcoe Protection Act, which was supported by all parties. We have heard, through our consultations, the need to take action on the Great Lakes through new tools. This motion would remove those tools necessary for those interested in cleaning up the Great Lakes.

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Mr. Michael Harris: Again, my question was, those designated policy initiatives would come before or would be identified typically—as in the case of the Lake Simcoe act, it was brought forward to the Legislature. Why now circumvent that process and not use the legislative process to deal with those initiatives? Why wouldn't those initiatives be brought forward through the assembly? Why wouldn't they do that?

Mr. Phil McNeely: The Lake Simcoe Protection Plan is enabled by the act. The plan is approved by cabinet. The identical process is proposed here. It's the same as in the Lake Simcoe act, which had all-party support. It's effective if we can do something through that methodology, not by taking all the tools away.

Mr. Michael Harris: My question, though, is on the specific initiatives and the reason for the designated policy. We're talking about initiatives that could be across the province, not focusing in on initiatives similar to the Lake Simcoe act. We're talking about, potentially, initiatives across the province, and this bill allowing for several initiatives to occur or be brought forward, circumventing the legislative process altogether. I'm questioning why that was inserted into the bill and why we wouldn't use the legislative process to further those initiatives similar to the Lake Simcoe Protection Act, because in this case, as I've said, this would allow for several initiatives to occur similar to the Lake Simcoe Protection Act, but they would circumvent the Legislature altogether. That's why I was asking for clarification from the ministry as to why that designated policy is in Bill 6.

Mr. Phil McNeely: We believe these tools should be kept, Chair, and I'd like to call the question.

Mr. Michael Harris: Of course they would.

The Chair (Mr. Peter Tabuns): Mr. McNeely, I have been advised that if there is further debate, we continue on. And generally speaking, Mr. McNeely, if you're calling the question, just say, "Call the question," rather than jump in, make remarks and then throw it in at the end.

I have Mr. Schein.

Mr. Jonah Schein: I'd like to call the question.

The Chair (Mr. Peter Tabuns): Mr. Schein does want to call the question.

Mr. Bill Walker: Chair, I have further debate.

The Chair (Mr. Peter Tabuns): The question has been called and we can vote on that.

Mr. Michael Harris: No, we still have an opportunity to debate.

Interjection.

The Chair (Mr. Peter Tabuns): Oh, I'm overruled. Go ahead, Mr. Walker.

Mr. Bill Walker: Thank you very much. Similarly to my colleague, I'm struggling a little bit here. I'm reading a document, a submission from the OFA. They bring up very specific concerns. My colleague Mr. McNeely has suggested they're identical, but if you read this document, their concern is that there is very similar language used; however, the aerial extent of the Great Lakes-St. Lawrence River basin is far more extensive, and consequently, a commitment to strive for continuous improvement of the basin's ecological health rather than its restoration would be a more reasonable objective.

I think they're bringing to light the same concerns we have: If you don't have very black-and-white, crystal-clear definitions, then you can sometimes put yourself in a situation where you've passed legislation that is very challenging and very daunting to the people who have to actually execute it.

I want to understand a little bit more why they're trying to move this. My understanding of the Lake Simcoe act is there was very much a standard legislative process used, and now what we're trying to suggest is we're going to move this Great Lakes act to be enabling legislation, which gives all the power to cabinet, so it doesn't have to come through the House; they can set all the requirements of that legislation and just move forward.

Very similarly, they talk about these environmentally sensitive areas or whatever the acronym we're using for

them is. I think we're moving away from the democratic, and I would like to understand why we're not doing it identically to the Lake Simcoe act. If it worked so well, and I'm being told it was a very good piece of legislation, why is it not identical? Why are we trying to move it forward as enabling legislation rather than standard legislation, Mr. Chair?

The Chair (Mr. Peter Tabuns): I'm sorry, Mr. Walker. You had a question?

Mr. Bill Walker: Yes, I'm just going through the Chair to the government. I need some further clarification. Mr. McNeely said it's identical, and I want to just make sure that we're clarifying—I'm a big stickler for detail and clarification. It is not identical because the former Lake Simcoe act was standard legislation. It went through the whole House. It was debated in the House. The legislation was set by the House. This legislation, I'm being led to believe, is enabling legislation, which gives—all the power is vested in cabinet. Yet the people who are going to have to execute whatever these directives would be, like a municipality, are going to be bound by this.

The OFA very specifically is saying, "We have concerns with this." They want some definition. "Phrases such as 'protection and restoration of ecological health' and 'protection and restoration of natural habitats and biodiversity' may imply that the objective is to replicate pre-European settlement conditions, or conditions from an even earlier era."

I brought this up earlier. We've moved on. We can't be taking everything as if it's 125 years ago. The environment has changed. The variables that go into our environment have changed, and yet we're trying to utilize language that allows us to go back and replicate, and that's very scary, because what's the cost? And they raise a very significant concern about the cost in these notes.

I'm now referring to the Ontario Headwaters Institute. They're talking very much about things that are going to happen if we consider the creation of geographically focused initiatives—that's the acronym I was trying to find earlier—similarly, unnecessarily, "without indicating how these areas will be different from, co-operate with, and be funded vis-à-vis remedial action plans, lake management plans, watershed management plans, local area regeneration plans, and" the designation of "priority watersheds."

When we use these vague terms—and I believe that's very specific to what the OFA's submission is about—we're again setting ourselves up, and I'd like either the government themselves or a ministry representative to explain to me why, when they say it's identical, it's not identical. It's enabling legislation as opposed to standard legislation. So let's just be clear and give me that definition so I can make a better determination if it truly is identical.

The Chair (Mr. Peter Tabuns): Do you have anything further to say?

Mr. Bill Walker: Well, I would like that response. I'm asking a question for further clarification, Chair.

The Chair (Mr. Peter Tabuns): Ms. Cansfield?

Mrs. Donna H. Cansfield: I just wanted to make a comment that virtually all legislation passed in this House currently, previously and decades ago is enabling legislation. All legislation is enabling legislation. When legislation is put together, it's put together, and if you go through this bill, you see that the consultation processes are put in place, relationship-building is put in place, that people sit at the table. You can ask the lawyers if you'd like, but all legislation that goes through this House is enabling, by virtue of the fact that you then go through and you produce regulations and additional support for that. It's enabling.

It enables you in this case, for example, to use existing legislation so that the policies—that's why it says "designated," to ensure that it's legally binding, that the existing toxics act actually has to be used. That's the enabling part, and that's what the legislation is doing. So it's really no different than any other part of legislation in this House.

Mr. Bill Walker: Thank you for that, and I'm going to defer to my colleague in just a second, but I do have another further point of clarification. So why are we vesting all power in cabinet? If the legislation for the Lake Simcoe act works so well and we went through the normal governance process to bring it through the House so all 107 representatives can do their due diligence to represent their constituents who put them into this very hallowed hall, why are we, in this case, changing it to only give the power to the cabinet? I find that very daunting, and I find it strange that, again, the NDP would support this, because typically in the House they're standing up and suggesting that they want to speak on behalf of their constituents.

This piece of legislation seems to me that there's a backdoor alley that we're trying to get into so that the cabinet can come out and say "we shall" and "you will."

From a municipal perspective—obviously who we represent greatly at these tables—that directive is going to come out with no consequence to the cost to implement and execute and be accountable for.

So I have a fundamental concern that this legislation is different, and the approach to governance maybe is different from the perspective of, "Why are we giving it all to cabinet?" Then you go to the guardians' council, so we're giving yet another unelected body the ability to set direction and to set directives, and I, as a duly elected representative, am going to have no say in that whatsoever.

The Chair (Mr. Peter Tabuns): Ms. Cansfield?

Mrs. Donna H. Cansfield: If I may respond. Actually, I think there are some amendments to deal with that issue later on, so you'll see, in fact, that you would have something to do with it.

But this act requires extensive consultation. This act requires people like the OFA to sit at the table. This act requires—it's a bottom-up act, so you cannot move forward without that consultation. I realize it's 70-

something pages of an act, but it's in there and it's very extensive.

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It's exactly what—well, the National Farmers Union, for example, is very supportive. The municipalities are very supportive. I can share with you that the farmers that I've been involved with on the stewardship program around shoreline restoration have had extraordinary results in terms of drainage and are very supportive of this approach.

I'm not suggesting that there aren't some challenges; there always will be, but the fact remains that this act is enabling. It's bottom-up and actually requires that consultation. It's written in the act and, as you see later on, it doesn't preclude—and there's also a definition around the issue of public bodies in the next amendment that's coming forward.

So we've tried to address exactly some of the issues that you've identified. I'm sure that as we get through this, you'll see that we have done that. Taking out the designated bodies actually removes the legal requirement to do the things that we want to be able to do in terms of consultation etc.

Mr. Bill Walker: With respect, Chair, I'm a little bit apprehensive to just accept that, because the Green Energy Act brings to light that there's not a lot of consultation and, in fact, they've taken a democratic right away right there from local municipalities, despite assurances that they would listen. They continue to say on the public record, "We will listen to democracy. We will respect democracy." And there's been not one iota of that act changed since Premier Wynne became Premier.

So I'm a little bit reticent to just take good faith and suggest that I'm okay with that. The OFA cites eight different acts that already regulate, protect and do all of these things, and there are five very specific ones within the Ministry of the Environment, the MOE, that in fact they believe is already giving the ability to do what they want to do with yet another act.

I remain unconvinced that this isn't going to usurp the normal legislative process and give power—once maybe perhaps an initial consultation has happened, the cabinet will have all control, and we will all be left to deal with what their directives are.

Mr. Harris, I'll defer to you.

Mr. Michael Harris: Yes, I think it's important to note that we're not saying that an initiative shouldn't have legal effect—that, we're clear on—but it should come before the Legislature like the Lake Simcoe Protection Act did. You're, in essence, allowing multiple Lake Simcoe acts to occur utilizing Bill 6—just to clarify that.

So I think it's important, and I need to ask the ministry lawyers why they created a process to create initiatives and its contents to be approved outside of the Legislature. That is a specific question for ministry lawyers as to why they created a process that would create those initiatives and its contents to be approved outside of the Legislature.

The Chair (Mr. Peter Tabuns): Could we have the ministry legal staff, then, come to the table? Could you state your name again for Hansard?

Mr. James Flagal: Yes, I can. It's James Flagal. I'm with the Ministry of the Environment's legal services branch.

This geographically focused initiative process is exactly what's mirrored in the Lake Simcoe Protection Act. The legislation before the Legislature at that point was enabling the cabinet to establish a plan, the Lake Simcoe Protection Plan. That draft plan came out after the legislation was passed—just soon after—and then, it was consulted on, the draft plan, and then it was made. So this is very similar here with respect to the geographically focused initiatives.

Mr. Michael Harris: In essence, though, you could have multiple Lake Simcoe protection acts within Bill 6 that would not come back to the Legislature for a final—

Mr. James Flagal: A geographically focused initiative could be established in any part of the basin or for the basin with a specific tool in order to deal with a particular issue—for example, like a nutrient loading problem, let's say, in a particular watershed.

Mr. Michael Harris: So you're saying that this process is actually similar to the Lake Simcoe Protection Act in creating a process to create those initiatives and its contents, and that would be outside of the legislative process?

Mr. James Flagal: That's right. The Lake Simcoe Protection Plan, as I said, was done after the legislation, and then there was extensive consultation on the plan. That's very similar, by the way, to Oak Ridges, the greenbelt etc., where the legislation establishes the authority for cabinet to establish some sort of plan.

The Chair (Mr. Peter Tabuns): Mr. Walker?

Mr. Bill Walker: Mr. Flagal, if I could have further clarification—again, I apologize, because I'm new at this, so I'm still learning lots.

My understanding of what you've just said with the Lake Simcoe legislation is, it was enabling. It allowed that legislation for a very specific area—in this case, the Lake Simcoe geographic area—to come before the Legislature and be debated. At the end of the day, obviously, that was agreed to by all three parties, we moved forward and that was set up.

My understanding of the way this legislation is being tabled is that you could actually set up, I'll say, eight, 10, 12 geographically specific areas, never coming to the floor of the Legislature to be debated. Cabinet could so choose, once this legislation is in place, to set up those eight, 10, 12, 25—whatever that number would be—with no consultation of other representatives such as myself, who may be impacted in representing my specific geographical areas. That's the concern that I continue to raise.

You're using the words "identical process," and yet I'm not certain that I believe it's identical, because, if I'm correct in what I'm hearing, the last one did come in front of the Legislature: The Lake Simcoe act did come

and have a discussion and a debate, and we moved forward.

I believe that, in this case, this legislation is going to enable cabinet to set however many geographic locations, and it will never come for debate at the table, because you already have the legislation to enable it. So it's not identical. I'm confused with your use of the word "identical," because I don't believe the process is going to be the same. That's a fundamental concern that we're trying to raise here. We need some assurance and clarification from you when you're using the word "identical." Either say it's not identical and clarify for me, or tell me it absolutely is and clarify for me—because I don't see them as two identical processes.

Mr. James Flagal: The question was asked of me whether or not the process itself was identical. If you're asking about the geographic scope—and that's what you're asking about now—the Lake Simcoe Protection Act was for the authority to establish a plan for the Lake Simcoe watershed. The authority in this particular act is to establish a geographically focused initiative in any part of the particular Great Lakes basin.

Mr. Bill Walker: Agreed, but my concern is that last one. You set the parameters of the Lake Simcoe area. The geographic area was debated in the House by 107 representatives, so everyone had the ability to represent their constituents.

It's very concerning for me that this legislation—how I interpret it is that you're going to be able to set as many geographically specific locations, with no consultation with the Legislature, with no debate happening in the Legislature. It's going to be rammed through, and the municipalities that are going to be impacted in those geographically identified areas are going to have to live with it, they're going to have to execute it, and there's no consideration in here, from my perspective, about what the financial consequences of those actions will be.

So I don't see that it's the same, because the last one, you debated what that geographical area—people agreed. They had the ability to come in and say, "I don't agree"; "I do agree"; "I want this provision put in."

If this legislation goes through, cabinet can come in and say, "I'm going to set up eight geographically sensitive areas. I'm going to move forward, and you're going to implement this in each of those areas." I see this as a fundamental challenge to my ability to do my job.

The Chair (Mr. Peter Tabuns): Mr. Walker, is that a question?

Mr. Bill Walker: Yes. I'm still seeking clarification, because he keeps continuing to say that they're identical. I'm not convinced at this point, with the information that he's providing me, that these are identical. So I either want him to admit that they're not identical and give me the clarification, or tell me they are and prove it to me, because I stand here not agreeing that they're an identical situation.

Mr. James Flagal: Again, the process for establishing a geographically focused initiative in the bill has extensive consultation requirements. The process for actually getting the Lake Simcoe Protection Plan in place—the approval body—is the same. But when you're talking about "identical," this particular act has a different geographical scope compared to the Lake Simcoe Protection Act, so in that respect, they're not identical.

The last thing I would say is, there are a number of steps that you have to go through before establishing a geographically focused initiative, including a proposal stage which was not there in the Lake Simcoe Protection Act. I don't know if concentrating on the word "identical"—and I apologize—is that particularly helpful, because each act has its own process. This act has its own process set out for establishing something called geographically focused initiatives. In fact, there's two stops at cabinet that you have for this geographically focused initiative, versus Lake Simcoe, when you just had one.

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Mr. Bill Walker: Thank you. That is a little bit helpful. The other piece, then, though: Can you please tell me, yes or no, if cabinet so chose to identify a geographically sensitive initiative—

Ms. Dipika Damerla: Chair, a point of order.

Mr. Bill Walker: —are they able—

The Chair (Mr. Peter Tabuns): Excuse me, Mr. Walker. Sorry. I have a point of order on the floor. I'll deal with that, and we'll go back.

Your point of order is?

Ms. Dipika Damerla: Thank you, Chair. I'm just watching the clock. It's 10 past 10. We're still, I believe, only on motion 4—technically 3, because we withdrew one. What I'm trying to get at is, given that this is going to take a long time, I'm going to see if we can all write to the three House leaders' offices to see if we can over the holidays sit to debate this particular bill clause by clause, given that it's quite clear from the pace at which things are moving that we will not be able to wrap it up.

The Chair (Mr. Peter Tabuns): Give me one second. I want to consult with the Clerk on whether that's in order.

That's not a point of order. When this questioning is concluded, then I will come back to you. But that is not a point of order; it's a motion.

Ms. Dipika Damerla: I just want to make sure I'll have time to come back to it.

The Chair (Mr. Peter Tabuns): I understand the concern about time.

Ms. Dipika Damerla: Thank you.

The Chair (Mr. Peter Tabuns): Mr. Walker.

Mr. Bill Walker: If I could ask Mr. Flagal one more specific question related to this, it's a case of, again—I'm not trying to be pedantic and I'm not dragging this out. I'm here to do my job and I'm here to learn. I want to make sure that when I vote for something, I did understand it fully and I've done it with my best ability on behalf of the constituents that I'm duly elected to represent.

Can you just give me a yes or no answer to this question, and if I need to further elaborate because I'm not clear, I'm happy to do that. Does this act, as written

right now, provide for cabinet to define and direct a geographically—whatever that terminology is.

Mr. Michael Harris: Focused initiative.

Mr. Bill Walker: A geographically focused initiative, without it ever coming back to the Legislature to be debated? Can they say, "That's going to be a geographically located initiative," without it ever coming back for me as a duly elected representative to have any say on that designation? Yes or no?

Mr. James Flagal: Yes.

Mr. Bill Walker: Thank you. So my concern remains valid that we're usurping the democratic process.

Thank you, Chair, and I'll defer to my colleague Mr. Harris.

The Chair (Mr. Peter Tabuns): Mr. Harris.

Mr. Michael Harris: Yes, just one final point on the actual amendment itself. I think my colleague Bill Walker, through his questions, stated exactly why we're proposing this amendment. I think the NDP should be concerned about the centralization of the decision-making ability through cabinet—

Ms. Dipika Damerla: Talk to Harper.

Mr. Michael Harris: Pardon me?

Ms. Dipika Damerla: Talk to Harper.

Mr. Michael Harris: —pertaining to this particular bill, because we would not have an opportunity then to debate specific legislation as was the case for the Lake Simcoe act. They could have eight to 10 Lake Simcoe acts within one without it ever coming back to the Legislature. That is why we've moved this amendment, and I think we've provided valid arguments as to why this motion should carry.

The Chair (Mr. Peter Tabuns): Okay, thank you.

Ms. Dipika Damerla: Mr. Chair.

The Chair (Mr. Peter Tabuns): Ms. Damerla?

Ms. Dipika Damerla: Thank you, Chair. I'm going to beg your indulgence to ask if, given the time we've taken to get to this point, in order to really get through all of the clauses, the committee could write a letter to all three House leaders seeking permission to sit for two full days during the holidays to go through clause-by-clause on this particular bill, the Great Lakes Protection Act.

The Chair (Mr. Peter Tabuns): Do we have agreement amongst all members of the committee for me to write that letter to the House leaders?

Mr. Michael Harris: No. A point of order, Chair: Referencing the member's comments earlier that we can't interrupt clause-by-clause to bring forward such—

The Chair (Mr. Peter Tabuns): Mr. Harris, you've registered your objection.

Mr. Michael Harris: All right.

Mrs. Donna H. Cansfield: Chair?

The Chair (Mr. Peter Tabuns): Ms. Cansfield.

Mrs. Donna H. Cansfield: Thank you very much, Chair. I wanted to make a couple of points because I appreciate your perspective. In fact, this act is no different from the Lake Simcoe Protection Act, because those geographical areas did not come back to the House for debate.

Mr. Michael Harris: But they were—

Mrs. Donna H. Cansfield: Excuse me. I know because I have property on Lake Simcoe. I know because there were identified geographical areas they had to deal with, especially with nutrients; that was not debated in the House. In fact, if you look at this act, it says that there will be in place—and if you read the act itself, on page 2, it identifies in 4(1), (2), (3), (a), (b), (c) and all the way through how the council must act, who must be the representatives, what are the checks and balances, how it comes back. It is exactly the same as Lake Simcoe in terms of, you debate the entire bill as it stands and then you go out and the bill has the checks and balances put in place; it has the representation put in place, who has to come, and it identifies it very clearly. It says, "environmental organizations, the scientific community and the industrial, agricultural, recreational and tourism," and in fact there's an amendment to put each member of Parliament, which is greater than what was on the Lake Simcoe Protection Act.

Mr. Michael Harris: I realize that, Donna, but—

Mrs. Donna H. Cansfield: Hang on.

The Chair (Mr. Peter Tabuns): Wait one second.

Mrs. Donna H. Cansfield: And so what I'm suggesting to you is, and I appreciate—I think that this is a really important piece of legislation. But I believe the suggestion that it is opposed to what's happened in Lake Simcoe is fundamentally wrong, because you did not debate each geographical area. Once it was determined by, for example, the Lake Simcoe Conservation Authority, which was involved—because there was a whole group of them—that "We need shoreline restoration on this particular part of the lake; we need to deal with the tertiary water treatment at this part of the lake; we need to deal with invasive species in this part of the lake," none of those came back to the Legislature for debate.

Mr. Michael Harris: I know, but, Donna, you specifically identified Lake Simcoe as the area of focus. That is what we're saying here.

Mrs. Donna H. Cansfield: But at Lake Simcoe—

Mr. Michael Harris: Here, you're talking about the entire Great Lakes.

Mrs. Donna H. Cansfield: Well, Lake Simcoe, in fact, is one of the largest freshwater lakes that we have, so it's a billion dollars' worth of business. It's no different than our portion of the Great Lakes in terms of shoreline restoration, ensuring commercial fisheries continue to exist, working with the First Nations and aboriginals, 80% of our drinking water, working with the farmers.

I know you may have different experiences with that than I may have had, but the fact of the matter is that it's protection of probably our greatest source that we need, and that's the water that we consume, and it in fact supplies the food that we eat. So we should be able to work through this exactly as we did with Lake Simcoe, which you wholeheartedly supported, along with your federal partners, who put in a significant amount of money. In fact, they too are very supportive of this

because they recognize how important the Great Lakes are in terms of shipping, what they call the H_20 highway, and the fact that we need to be able to ensure—that's why they have their international agreement, their bilateral agreement, which has nothing to do with shoreline protection. It has to do with shipping and water diversion. That's why those other acts are specific. Clean drinking water only tests the water. It doesn't do anything else but test the water. That's why you need the legislation that enables it said, for each part of those that are identified, that are important to ensure the Great Lakes protection, that you must comply; you can't ignore it. We can't be silent on it and you can't ignore it. That's why this is enabling legislation.

The Chair (Mr. Peter Tabuns): Mr. Walker.

Mr. Bill Walker: Thank you again, Ms. Cansfield. Your historical perspective is very helpful for people like myself, and in fact all three of us who are relative rookies still.

A point of clarification, then: The Lake Simcoe act, to my understanding, had no guardian council.

Mrs. Donna H. Cansfield: It actually had a council—if I may—that was put together. It had a very extensive council that was put together made up of municipalities, environmental groups. I can't remember exactly whoever was on it, but it was very extensive. And as they consulted, they were required to go out and consult extensively with the community, because one of the biggest challenges on Lake Simcoe was the nutrient or the fertilizer problem and its drawing into the lake. So anything that they had decided that they would like to do had to go through that extensive consultation process, and it was very extensively representative of the people. That's why you had the Ladies of the Lake here, if you'll recall—one of the groups that sit on it—conservation authorities, municipalities, the municipality where my cottage is, Georgina. There's Barrie, Innisfil, you name it, because it is so important to each and every one of those communities that (a) their voice is heard, but (b) their story is heard, because I can share with you that the story at Lefroy is quite different from the one in Barrie, or the story in Keswick is quite different from the one at Snake Island, because they each have different issues they need to resolve. That's that geographical location thing.

So they did have an extensive—and they do have a council that does do this—

Mr. Bill Walker: And one more small little point: You've referenced that there was an advisory council, whatever that would be made up of at that point. Is there a difference this time—that in this case, the guardians' council will have primary approval ability that that group did not?

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Mrs. Donna H. Cansfield: No, I think if you look again, it's exactly the same. It's no different, and one of the reasons is because when we did the consultation on the Lake Simcoe Protection Act, we worked very closely with the feds on this—because we have a vested interest in that whole body of water, just as we do the Great Lakes: How do we find the best way to do this that is inclusive of all of the partners who need to be at the table? So there can be no unilateral decision-making that eliminates one party from another's perspective.

Mr. Michael Harris: But, Donna, I think you raised the point, exactly. What we're saying is, those initiatives were created specifically to address a certain area that were brought forward to the Legislature—

Mrs. Donna H. Cansfield: No, they weren't. I'm sorry; they were not brought back. All you approved was the Lake Simcoe Protection Plan.

Mr. Michael Harris: You identified an area to address. It was—

Mrs. Donna H. Cansfield: It did not come back to the Legislature.

Mr. Michael Harris: I know, but you identified Lake Simcoe as an area or initiative to bring to the Legislature to propose an act—of course enabling, afterwards, dealt with the initiatives. But this act is broad-based and will not allow for an opportunity similar to what happened with the Lake Simcoe act.

Mrs. Donna H. Cansfield: No, I disagree with you. It's exactly the same. What you're suggesting is, because of the size of the Great Lakes, that predisposes that you could only do this with Lake Simcoe but you can't do it with anyone else. We're saying that it worked so well with the Lake Simcoe Protection Act—it's identical. It is bottom up. It has all the checks and balances. It involves the people where the rubber hits the road, prior to. So all the legislation does: It enables this to happen, and then we go out and we do the work, which is no different than what I did in natural resources. When I went to Lake Erie and talked to the farmers, we specifically looked at their shoreline restoration for drainage because it was a huge issue for them. We didn't do all of Lake Erie; we did a specific part of Lake Erie. That was the reason that the farmers were quite involved in that process, along with the stewardship council. They were the ones who identified their geographical area; we didn't.

The Chair (Mr. Peter Tabuns): Thank you, Ms. Cansfield.

Mr. Michael Harris: I appreciate that. Here's a picture of the Great Lakes, and there's Lake Simcoe. You're now saying that this one bill will address all Lake Simcoe acts within one. So my—

Mrs. Donna H. Cansfield: That's just your lawyer pulling some hairs out of that. That's not true. The fact is, there is an act that works and we're using the same premise for another act.

Mr. Michael Harris: But it will never—

Mrs. Donna H. Cansfield: I'd like to call the question.

Mr. Michael Harris: But agree with me that it will never come back to the Legislature.

Interjections.

Ms. Dipika Damerla: Chair—

The Chair (Mr. Peter Tabuns): Mr. Harris, Ms. Cansfield, Ms. Damerla.

Mr. Harris, you're complete?

Mr. Michael Harris: Again, the intent here is to remove the designated policy, as I had mentioned, so that it would be able to come back to the Legislature, as the initiative of Lake Simcoe was brought forward initially, so that we can address areas around the Great Lakes, similar to what we did with the Lake Simcoe act, but including the members of the Legislative Assembly in that process. That is the intent of the motion.

The Chair (Mr. Peter Tabuns): We are about to run out of time. Ms. Damerla, you have a request?

Ms. Dipika Damerla: Yes. Chair, I—

Mr. Michael Harris: Wasn't the question called?

The Chair (Mr. Peter Tabuns): No.

Mr. Michael Harris: Donna called it.

Mrs. Donna H. Cansfield: Yes, but I spoke too much.

The Chair (Mr. Peter Tabuns): She spoke too much. Ms. Damerla?

Ms. Dipika Damerla: I did not get a clear answer. I heard MPP Harris say I can bring a motion forward. That was not a motion. All I was asking was if all of us can agree to write to the three House leaders, seeking permission to meet for two whole days for clause-by-clause on this bill, over the holidays.

The Chair (Mr. Peter Tabuns): You've made that request. Does the committee agree?

Mr. Michael Harris: No.

The Chair (Mr. Peter Tabuns): We heard a no.

Ms. Dipika Damerla: Can we put it to a vote? How does this work? Does it have to be unanimous?

The Chair (Mr. Peter Tabuns): Yes. You're making a request. It's not a motion. You don't have—

Mr. Michael Harris: I'll call the question.

The Chair (Mr. Peter Tabuns): The question has been called.

Any further debate?

Mr. Jonah Schein: Point of order. Am I able to pass a motion requesting—

The Chair (Mr. Peter Tabuns): No, apparently you can't move a motion.

Any further debate? There being none, all those in favour of the motion? All those opposed? It fails.

We've come to the end of our time. This committee stands adjourned.

The committee adjourned at 1025.

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ISSN 1180-4319

Legislative Assembly of Ontario

Second Session, 40th Parliament

Assemblée législative de l'Ontario

Deuxième session, 40e législature

Official Report of Debates (Hansard)

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Published by the Legislative Assembly of Ontario

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Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 4 December 2013

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Mercredi 4 décembre 2013

The committee met at 0901 in committee room 1.

CHILD AND FAMILY SERVICES AMENDMENT ACT (CHILDREN 16 YEARS OF AGE AND OLDER), 2013

LOI DE 2013 MODIFIANT LA LOI SUR LES SERVICES À L'ENFANCE ET À LA FAMILLE (ENFANTS DE 16 ANS ET PLUS)

Consideration of the following bill:

Bill 88, An Act to amend the Child and Family Services Act with respect to children 16 years of age and older / Projet de loi 88, Loi modifiant la Loi sur les services à l'enfance et à la famille en ce qui concerne les enfants de 16 ans et plus.

The Chair (Mr. Peter Tabuns): Good morning, everyone. The Standing Committee on Regulations and Private Bills will now come to order. We're here for public hearings on Bill 88, An Act to amend the Child and Family Services Act with respect to children 16 years of age and older.

FAY AND ASSOCIATES

The Chair (Mr. Peter Tabuns): I will now call on Fay and Associates, Fay Martin, to come forward. You have up to five minutes for your presentation, and any time remaining will be used for questions from committee members. Please state your name for Hansard and begin.

Ms. Fay Martin: Thank you for having me here today. My name is Fay Martin. I'm a social worker turned researcher with a long professional career serving marginalized people, mostly youth, some of the time within the child welfare system. Much of that career is in rural Canada, and I come to you today from Haliburton county, about three hours north.

I want to bring a rural perspective to this conversation, informed by recent research that I've done with youth raised rurally in my part of Ontario.

The Chair (Mr. Peter Tabuns): Fay, you may sit, if you wish.

Ms. Fay Martin: I can sit?

The Chair (Mr. Peter Tabuns): Yes, and just bring the microphone closer to you.

Ms. Fay Martin: That's better?

The Chair (Mr. Peter Tabuns): That's great. Good.

Ms. Fay Martin: I want to make three points, each illustrated by highlights from the narratives of youth who participated in that research. My first point is that rural youth who leave or are kicked out of their families need someone whose job it is to mind their business while they create surrogate or substitute families in their home communities.

My second point is that rural youth who are sent to urban centres to access needed resources that are not available in their rural communities have the right to that transition being guided and supported.

Thirdly, I want to remind us that a great deal of experiential learning happens in the years between 16 and 18, and that we have an obligation to be supportive of that learning, challenging as it is, for all youth, not just our own.

I'll end up by letting you in on a little-known secret about who these youth are, just to finish on an up note. Over the past couple of years, I've been engaged in a project called To Go or To Stay. It's a narrative-based enquiry, funded by the federal government's Homelessness Partnering Strategy, about how youth raised rurally in east-central Ontario think about and manage the decision to either stay where they were raised or leave to urban centres. I did in-depth interviews with 48 young people, ages 16 to 30, who were recruited both through youth-serving agencies and through social networks. Some of their stories, which cover a very broad spectrum of reality, bear really directly on Bill 88, and I'm going to tell you about three of them very briefly today.

The first issue: informal solutions to prematurely leaving home. In rural areas where there's a dearth of formal resources, youth whose home life becomes intolerable have to create their own options. The option of choice is to find or create surrogate or substitute families. Some youth do this quite successfully; they tuck into their friends' families or they find an extended family member who's up to the task. Some take on partners, and those relationships maintain over time. But others with less assets to bring to the negotiation are rendered very vulnerable. They are shopping in the social bargain bin, so to speak, and they have to really make do with what they can afford. At the same time, they're flying under

the radar, because they know that their circumstances are not likely to pass scrutiny.

When they have no choice, they have no power. When they have no choice, potential resources within the community, well-meaning citizens, are also powerless to help them. The youth are abandoned to whomever wants them for whatever reason.

If it's somebody's job to care about these youth, if somebody is charged with overseeing their situation, these youth have some power to push back against exploitation, and it might be that exploiters would be somewhat constrained by the possibility of exposure. When, as is currently the case, it's nobody's job to pay attention, we as a society send a tacit message that the youth is fair game.

Leeann was 26 when I interviewed her. Her parents separated when she was a toddler. She remained with her controlling dad through two successive relationships marked with domestic violence, becoming the eldest in a growing troop of children. At 15, she went to live with her mother. That arrangement lasted less than a year. She couch-surfed and worked while trying to complete high school, and then moved in with a much older boyfriend who subsequently had knee surgery and was unable to work.

Here's what she says, "When I was 17, in grade 11, I met with the school counsellor and she asked me what was going on because my grades were slipping"—

The Chair (Mr. Peter Tabuns): You have a minute left.

Ms. Fay Martin: Oh, my goodness. I won't tell you very much—okay.

The second thing is unsupported transitions to access urban resources: Rural communities often have fewer formal resources than urban communities. Youth whose needs exceed resources available in the rural community are involuntarily migrated to urban centres to access the necessary resources. Often there are little or no resources that are offered to support the transition. If youth become estranged from their family in this transition, they become very vulnerable. But in any case, they lose their social capital—their friends, the familiarity of being known. They suffer culture shock, and they're ill-prepared to manage urban life.

I have here the story of Manny, who was a flamboyantly gay kid who was sent to a school in Toronto that was gay-friendly, and who landed at Covenant House and lasted about three days before he got sucked into the underworld. For him, there was very little choice. There was not another high school within 100 kilometres.

The Chair (Mr. Peter Tabuns): Thank you, Ms. Martin.

Ms. Fay Martin: Thank you.

UNICEF CANADA

The Chair (Mr. Peter Tabuns): Our next presenter, from UNICEF Canada, please come forward. You have five minutes for your presentation. Any time remaining will be used for questions from committee members. Please state your name for Hansard and begin.

Mr. Marvin Bernstein: Marvin Bernstein, policy adviser, UNICEF Canada. You have our written submission in front of you. In the time that I have, I want to just put on record the recommendations from UNICEF Canada that are set out on pages 18 and 19 of appendix A.

Recommendation 1 is that the United Nations Convention on the Rights of the Child be explicitly recognized as having application to Ontario's Child and Family Services Act. That has been done in part in Bill 88, and we certainly appreciate that.

I should say that UNICEF Canada applauds the spirit and intent of this bill. This is a long-standing issue affecting young people 16 years of age and 17 years of age in this province. UNICEF's recommendations that are being advanced are really to strengthen this bill and ensure that there is another cohort of young people who are 16 and 17 who are entitled to the same level of protection from abuse and neglect, even where they may not be consenting to enter into a temporary care agreement.

To continue, recommendation 2: that Bill 88 be amended to ensure that the United Nations Convention on the Rights of the Child is fully incorporated into all aspects of interpreting and applying Ontario's Child and Family Services Act and that the obligations under the convention apply to all decision-makers and adjudicators, and not just to service providers. The bill references service providers as being subject to the provisions of the convention. We're suggesting that there be broader application. We recognize that the bill relates to part II of the legislation, but really judges, the Child and Family Services Review Board—all actors within the child welfare system should be subject to the obligations to respect the rights of children.

Recommendation 3: that Bill 88 be amended to provide a new stand-alone subsection of the declaration of principles that would state or have language similar to: "In interpreting and applying this act, regard shall be had to the United Nations Convention on the Rights of the Child, adopted by the General Assembly of the United Nations on November 20, 1989, and to which Canada is a party." That language is taken by contrast from the Provincial Advocate for Children and Youth Act, which is a much stronger and broader application of the principles of the convention. We commend that to you.

Recommendation 4: that the upper age for legislated child protection intervention be raised from 16 years of age to 18 years of age in Ontario's Child and Family Services Act so as to be consistent with article 1 of the United Nations Convention on the Rights of the Child.

0910

Again, we appreciate and support the elevation of the age for child protection to age 18. It's a long-standing issue. When I worked at the Ontario Association of Children's Aid Societies, we prepared a comprehensive brief and supported the elevation of that age.

The Chair (Mr. Peter Tabuns): You have one minute left.

Mr. Marvin Bernstein: Thank you.

Recommendation 5: that the proposed legislative framework for allowing 16- and 17-year-olds to voluntarily enter into temporary care agreements with their local children's aid societies, as set out in section 2 of Bill 88, be implemented, subject to regulatory and Ministry of Children and Youth Services policy changes relating to the funding of its continued care and support for youth and renewed youth support programs.

Two more recommendations before I close. Recommendation 6: that Bill 88 be amended to provide a further avenue for court-ordered in-care protection and support services from children's aid societies for 16- and 17-year-olds who may be in need of protection, as defined by section 37(2) in part III of Ontario's Child and Family Services Act.

Lastly, recommendation 7: that Bill 88 be amended by further amending the definition of "child" in subsection 37(1) of the Child and Family Services Act, so as to be consistent with that of subsection 3(1), which defines a child as "a person under the age of 18 years"—

The Chair (Mr. Peter Tabuns): Thank you. I apologize.

Mr. Marvin Bernstein: Thank you.

MS. JANE SCHARF

The Chair (Mr. Peter Tabuns): Our next presenter is Jane Scharf. Ms. Scharf, you have up to five minutes. Any unused time will be given to one of the parties for questions.

Ms. Jane Scharf: I'll use all the time. I probably need five times as much.

The Chair (Mr. Peter Tabuns): Okay. Please state your name and proceed.

Ms. Jane Scharf: My name is Jane Scharf, and I'm presenting a brief to the committee that I can't possibly cover in five minutes, so I've asked the clerical staff to provide the committee members with a copy. There's a report we're calling The Dam is Breaking, and attached to that is an affidavit from Pamela Palmer, with some exhibits that go with the affidavit. Obviously, I can't go through all this material, but I'll just try to highlight what is in here.

We have put this document on a website, so if the public wants to look at the full version that the committee is going to see, they can look at it there. The website is under www.contactyourmpp.com, and the page title is "Standing Committee Brief." So the affidavit is there and the brief is there, as well. I'll just repeat one more time: www.contactyourmpp.com.

Primarily, we want to ask the committee to scrap this bill entirely. We think that there are serious problems with the administration of the children's aid societies that are well known to the public at this point. Until those problems are fixed, we don't want to see their jurisdiction expanded to include all youth aged 16 to 24, even those who were never in the care of children's aid, which Bill 88 would do.

We're making the claim here that in Rod Jackson's presentation to the public, he misrepresented the facts in his promotion of this bill. We want the committee to scrap the bill as well as to file a complaint with the Integrity Commissioner under section 30 of the Members' Integrity Act, because an MPP has an obligation to support the interests of the public and the government when they're undertaking a political activity, such as introducing a private member's bill.

This material that we're submitting is evidence, and like I say, we have sworn the exhibits. We have evidence—

Mr. Rod Jackson: Go for it.

Ms. Jane Scharf: Pardon me?

Mr. Rod Jackson: Go for it.

Ms. Jane Scharf: Go for what? Are you supposed to talk when I'm presenting?

The Chair (Mr. Peter Tabuns): No. Please continue.

Ms. Jane Scharf: I don't appreciate being interrupted, Mr. Jackson.

We have seven areas where we're providing proof of difficulties or misrepresentations. First of all, Mr. Jackson says that there is nothing for youth 16 years old, 17 years old, except if they're youth who are in the children's aid. We have presented here a document, put together by the Ottawa police—

The Chair (Mr. Peter Tabuns): One minute left.

Ms. Jane Scharf: —and it's Youth Resource List, and it's 27 pages long.

As well, there are documents here showing that there is welfare provision for 16 and 17, and they treat them as minors, not as adults, as Mr. Jackson suggests.

Basically, nothing in the promotion is true. It's all fabrication of fact, and this presentation demonstrates that.

As well, we've done a list of public information available to show that the CAS is not even following its own mandate—like, the auditors—the Ombudsman is having issues with them. The children's advocate has said he doesn't accept this bill in its current form.

In our brief, we have a statement from six advocates—or seven, including myself—

The Speaker (Hon. Dave Levac): Ms. Scharf—

Ms. Jane Scharf: —Robert McQuaid—just one second—

The Chair (Mr. Peter Tabuns): Thank you. I'm afraid that your time is up.

Ms. Jane Scharf: —Dorian Baxter—please let me—just two seconds here—

The Chair (Mr. Peter Tabuns): No. I've got Ms. Pamela Palmer on the line, coming up to speak next. I'm afraid you have to end.

Ms. Jane Scharf: Can you ask her to read the list of advocates?

The Chair (Mr. Peter Tabuns): She will speak as she sees fit.

MS. PAMELA PALMER

Ms. Pamela Palmer: Hello. Everything I speak to is found in the evidence presented to you minutes ago by

Jane Scharf, in my commissioned affidavit and on our website, contactyourMPP.com.

We have been in contact with many youth currently in the care of the CAS who have all complained about abuse and neglect they face in the care of the CAS. They even tried to be here today to present to you.

CAS is a private corporation that answers to no one, with the exception of lax oversight by the Ministry of Children and Youth but only when there appears to be problems with the financial management of the corporation. Not even an MPP can investigate the CAS nor intervene on behalf of a family or child. The Ombudsman does not have oversight, even though he has been fighting for years to oversee the CAS. Their only review board is internal and has zero power to force the CAS to act in accordance with their findings.

They currently receive $1.2 billion a year of taxpayer money, yet over 80% of the street population comes directly from the CAS: youth who cannot secure income by any other means. The CAS has abandoned them. The CAS is not paying any money towards these kids, but it is collecting the money for these kids from the taxpayer. What will happen to their trusts and estates with this bill?

The youth in care represent less than 1% of the youth population, yet they are grossly overrepresented in the streets and prisons.

This bill should be about forcing them to clean up their act, not extend their power and jurisdiction through one of their ex-board members, Rod Jackson. This is a conflict of interest that needs to be investigated immediately.

Nine youth are represented in this bill, handpicked by the CAS—not the thousands of others currently in their care, in detention centres and jails, on the streets, or currently on OW or ODSP. None of those youth have been asked if they would want to go into the care of the CAS. I doubt any of them are here today to present, nor are there OW and ODSP workers, who will lose their jobs.

Much of the youth supports and shelters currently offered will be forced to close their doors. They have much better outcomes for the youth than the CAS. Why are they not being awarded this jurisdiction when their outcomes fare much better? Provincial advocate Irwin Elman said himself, "They do not have the capacity to support these youth 16 to 18, and I would like to see it mandated elsewhere." He even wants this to bill die on the committee table.

Rod Jackson did not practise due diligence when researching and writing this bill. He has misled and misrepresented the facts to the public in legislation by failing to once mention the name "the children's aid society" in one of his speeches to the Legislature. It has proven to the public he is not trustworthy and should be investigated by the Integrity Commissioner. In fact, we ask that you send a report to the Integrity Commissioner for further investigation.

This bill is nothing but a sneaky way to privatize welfare. Welfare is currently offered by the government. CAS is a private corporation already profiting off the backs of our children and youth and families. Not even the courts can order the CAS to provide services to their clients. Section 51(3.2)(c) of the Child and Family Services Act forbids it. Will you be able to guarantee that these youth receive services and support? CAS has more power than the police. Section 40 of the CFSA: The CAS can enter your home with or without a warrant, use force with or without police presence and apprehend children with or without a warrant.

0920

In order for this to be a voluntary agreement, as it is being presented, there would need to be amendments to the OW and ODSP laws first, or this agreement is forced upon them by having no other means of support.

Let me leave you with this thought: The CAS has proven time and time again it fails—Jeffrey Baldwin, Randal Dooley, Katelynn Sampson and Matthew Reid, to name but a few. They will use their powers to abuse the funding process. See the Toronto Star article dated March 14, 2013—

The Chair (Mr. Peter Tabuns): Ms. Palmer, you have a minute left.

Ms. Pamela Palmer: —a leaked memo by the Peel CAS where they instructed their workers not to return any children home, so that they can retain their funding. That is the grossest form of abuse you can find from an agency that is supposed to protect and serve our most vulnerable. They obviously only serve and protect themselves. They will destroy the future of this province and potentially this country.

The only thing that should be done with this bill is scrap it. It is one page. Scrap it.

As we speak, our youth have rights and freedoms under the charter. Do not allow their rights to be taken away and their futures destroyed. Thank you very much.

The Chair (Mr. Peter Tabuns): Thank you, Ms. Palmer. Your time is up.

ONTARIO ASSOCIATION OF RESIDENCES TREATING YOUTH

The Chair (Mr. Peter Tabuns): I will go to the next presenter, the Ontario Association of Residences Treating Youth. Mark Williams? Mr. Williams, as you know, you have up to five minutes. If there's any time leftover, questions will be asked. Please state your name and proceed.

Mr. Mark Williams: Mark Williams, from the Ontario Association of Residences Treating Youth. Thank you for the opportunity to present today.

Last year, OARTY's 70 member agencies provided over 800,000 days of care to more than 3,300 children and youth in the care of Ontario's children's aid societies, who turn to us when they lack the internal resources to handle their more challenging children. As per-diem-funded agencies, our members have been providing cost-effective, quality services to children's aid societies for decades.

OARTY strongly supports Bill 88, which is designed to provide services to a very vulnerable group of young people who are currently falling through the cracks. Just because the system is identifying these kids for the first time at 16 or later doesn't mean they don't share many of the issues of the clients who are already in care. It's unlikely that these family issues that would drive a teen into the street have just popped up. It is certainly quite common for our members to report receiving requests for services for just this age group, who, without the resources they need, often end up in the care of hospitals, shelters and the youth justice system. Certainly, any child willing to walk out of home at 16 or 17 is clearly facing some genuine challenges, and as a society we need to both recognize it and support it, with homes, resources and a financial commitment. Given the age and emerging independence of this particular group, they may be unlikely prospects for traditional adoption or foster care.

OARTY has two items that we believe are critical: Bill 88 in its current form allows that a children's aid society may make a written agreement for the society's care and custody of the child over 16. We believe this wording suggests that the children's aid can choose whether or not to enter into an agreement, and we believe that this language could result in this very vulnerable group of young people not receiving services as budgets are tightened. To be perfectly explicit, if CAS budgets are tightened, would they be forced to defund or underfund this population that Bill 88 is being designed to protect? Without a requirement or a mandate to service this population, it's likely that this service stream would be one easily cut in times of austerity. OARTY would strongly advocate that the wording of the bill be amended to require the children's aid society to enter into an agreement at the request of the youth.

At a time when CASs are struggling with curtailed budgets, the prospects of adding an additional group of youth requiring care may certainly seem daunting. Other presenters today will undoubtedly talk about the need for additional funds to make Bill 88 a reality. Our second item is to strongly add our voice to those who weigh in on funding. We believe the government needs to fund this initiative as a separate line item for MCYS, and then the system needs to make the right choice about allocation of this funding.

Our membership has been providing quality, cost-effective service to this age group for decades. Our members have both the capacity and the capability to provide services immediately. Approximately 900 clients within this age group are served by our members every year, and of these clients, 500 have complex special needs. We have the sophistication required to support these kids.

The Drummond report called for many—

The Chair (Mr. Peter Tabuns): One minute left.

Mr. Mark Williams: —improvements in the strongest possible language. There was a strong suggestion to include the private sector to deliver public services. At any given time OARTY members provide residential services to approximately a quarter of the young people needing such services in the care of the Children's Aid Society. OARTY recognizes the enormous challenges faced by MCYS in containing and managing the overall CAS expenditures, and we are confident that our sector can be part of the solution.

Thank you again for the opportunity to participate today.

The Chair (Mr. Peter Tabuns): Thank you. We have 20 seconds left. The official opposition, any questions? There being none, thank you very much. We'll go to our next presenter.

Miss Monique Taylor: Chair? I would just like to know if you can provide us a copy of your submission, please.

Mr. Mark Williams: We'll have a submission tomorrow by 5 o'clock.

Miss Monique Taylor: Thank you.

The Chair (Mr. Peter Tabuns): Okay. Thank you very much.

PRO BONO LAW ONTARIO AT SICKKIDS

The Chair (Mr. Peter Tabuns): The next presenter is Pro Bono Law Ontario at SickKids. If you would please introduce yourselves for Hansard, you have up to five minutes. Any unused time will be given to the third party for questions.

Ms. Lee Ann Chapman: My name is Lee Ann Chapman. I'm triage lawyer at PBLO at SickKids. I represent patients and families at the Hospital for Sick Children. This is Kathy Netten. Kathy Netten is a medical complex care social worker at the Hospital for Sick Children.

As you've heard, Bill 88 allows for the care and protection by CAS of 16- and 17-year-olds on consent. We are coming today to ask you to make a further amendment to the CFSA, to extend the same care and protection to the most vulnerable 16- and 17-year-olds we see in our hospital. Those are young people without the capacity to consent either because of physical, mental health or development issues, who live in situations where they are abused or neglected, and whose parents or legal guardians—who are their substitute decision-makers—cannot or will not consent on their behalf to receive the care and custody of CAS under the current amendments.

Under the current system, the only alternative for these young people is to seek the services that they need through the Office of the Public Guardian and Trustee. This is a very cumbersome system, as Kathy Netten will illustrate.

We are coming here today asking for the apprehension powers and duties of the CAS to be extended to provide protection for incapable youth up to the age of 18. As well, we are asking that the duty to report suspected abuse and neglect be extended to those young people up to the age of 18.

Based on a recent case, Kathy Netten will provide you with some of the barriers in the current situation that these most vulnerable young people face in order to receive care and protection.

Ms. Kathy Netten: I would like to tell you very quickly about a family that I worked with. This was a young woman who was 16½ years of age, who was nonverbal and non-ambulatory. It was impossible to assess her cognitive capacity because she had hearing impairments and visual impairments and didn't respond to her name and only to touch by family members. She had no capacity for her own decision-making. She was living in a family where both parents had serious mental health issues. There was huge involvement from multiple services, and they would find her in dirty diapers. She was not being fed, and she was not getting medication.

What happened is that the parents were unwilling to allow additional supports, and we went to the Office of the Public Guardian and Trustee. This system, unlike the children's aid society, is a very lengthy process. It took over six months to have a transfer of decision-maker for this very, very vulnerable young woman. What happened is, there was a phone intake, which took two months. There was an investigation, and then it proceeded to court before someone could make decisions. That entire time, she could have been taken out of the hospital and taken to another country and been beyond any protection whatsoever. It took six months for the public guardian to assign a substitute decision-maker, and now that individual has gone into residential placement. The powers of the children's aid society, where there is an apprehension and then court, would have protected this individual from being taken overseas.

0930

The Chair (Mr. Peter Tabuns): Have you completed?

Ms. Lee Ann Chapman: Yes, we have.

The Chair (Mr. Peter Tabuns): Thank you. No questions?

Then we'll proceed with the next presenter. Is Archbishop Dorian Baxter present? No?

ONTARIO ASSOCIATION OF CHILDREN'S AID SOCIETIES

The Chair (Mr. Peter Tabuns): We'll go to the Ontario Association of Children's Aid Societies, Mary Ballantyne. You have up to five minutes, and if you'd introduce yourself for Hansard. Thank you.

Ms. Mary Ballantyne: Good morning. My name is Mary Ballantyne and I'm the executive director of the Ontario Association of Children's Aid Societies. It's a member organization of children's aid societies across the province. I'm very pleased to be here today, accompanied by staff and youth: Wendy Miller, Virginia Rowden, Vera Williams, Thomas Nunno and Adam Diamond.

This is a very important day for children and youth. It's the first time we've had the opportunity to speak in the Legislature about legislation to protect youth aged 16 and 17. This change is something that children's aid societies, youth and advocates have long awaited, and we are hopeful that this bill will become law.

Why is it so important for youth? What do they tell us? They tell us that they can't stay at home sometimes. It's not safe, and they wish they had somewhere to go. They really would like to stay in school, but they can't because they don't have a safe place to live. They don't want to go on welfare because welfare will often make them go back home. They're afraid to stay in homeless shelters. It's scary. Often their things are stolen and it feels very unsafe. They really wish that help was there when they needed it.

Ontario is one of the few jurisdictions in Canada that's not able to offer this critical safety net for 16- and 17-year-olds, and it's time to move forward. Children's aid society staff work hard every day to help support families to keep children safe. Often in our work we encounter youth who have turned 16 and are coming to us for help for the first time. Sadly, under the current system, children's aid societies may not offer that service. These young people are forced to seek help through the adult system. Sometimes 16- and 17-year-olds need protection and they're part of a sibling group, so imagine the devastation of these children who are not only unable to be protected but are separated from their younger siblings. The younger ones are able to go on to safe places and the older ones are left to fend for themselves.

We refer to these young people as youth, but in fact they are still children and they still need our protection, care and guidance. You will hear from others today that these youth do struggle. They often have to run away from home, drop out of school and become homeless. Living on the street, they are exposed to dangerous circumstances and/or are at risk of exploitation. They are caught between two worlds—one which expects them to survive as an adult but for most purposes treats them as children. They need a guardian or a sponsor to access most services, to enter into contracts, to sign a lease and to register for utilities. Even to apply for welfare they need an adult to assist them. They may be able to withdraw from parental care, but they may not leave school until 18. These are only a few of the inconsistencies in expectations that youth of this age face daily.

The Ontario Association of Children's Aid Societies supports the overall intent of Bill 88. We agree that 16- and 17-year-olds should be able to access protective services and enter into temporary care agreements with children's aid societies on a voluntary basis for a maximum of two years.

The Chair (Mr. Peter Tabuns): One minute left.

Ms. Mary Ballantyne: Bill 88 is an important first step, and we urge its swift passage. We also suggest that implementation be accompanied by a process that would allow us—government, youth and other youth-serving organizations—to see how these changes address the problem. We need to see if this will allow children to be protected and whether there needs to be an additional authority to investigate and seek orders from the court. As was mentioned by the women from the Hospital for Sick Children, we would want to see if this might be necessary. If proclaimed, the lessons learned could also

help us to see whether these services would provide enough, or whether there should be further services, as are offered to current crown wards.

As this bill moves forward, the Ontario Association of Children's Aid Societies would be pleased to be involved in refinements to the bill and, if passed, the development of regulations to support the bill's successful implementation. Thank you.

The Chair (Mr. Peter Tabuns): Thank you for your presentation. It was right on the button.

OUR VOICE, OUR TURN

The Chair (Mr. Peter Tabuns): The next presenter: Our Voice, Our Turn. Are they present? Okay.

Michele Farrugia and Kayla Sutherland, you have up to five minutes to present. If there's time left over, you may be asked questions. Please give your names and we'll proceed.

Ms. Kayla Sutherland: Hello. My name is Kayla Sutherland. I have here My Real Life Book as my submission. Thank you.

Two years ago, I sat where you sit, on the panels team with the Youth Leaving Care Hearings, listening to submissions from youth all over Ontario as well as professionals and adults who had been in care for years before. We heard so many things. One of the big things that we heard is that youth want the option to be able to be protected past the age of 16, that 16 is not a good age to take care of yourself.

Does any one person here know a 16-year-old who knows how to completely take care of themselves? No. I don't think that you would put your child out on the streets. I don't think that you would expect them to take care of themselves and know how to get food, how to pay for rent and how to get a job. They're not even done school yet.

Many of them, because they're at risk, get children, and then they never get to see their children again. How are they supposed to be able to parent when they're still children? They're never given the chance. They were never taught.

As a province, we need to be helping our kids. It's not right that the province lets your kids out at 16 years old. As an individual, are you proud to say that your kids, the children of Ontario, are being found homeless, addicts or dead? Are you proud that those are your children? I hope not.

Mr. Michele Farrugia: Hi. My name is Michele Farrugia. Two years ago, I sat right here at the Youth Leaving Care Hearings. My testimony made a difference for me and for others already in the system, but today I'm here to advocate for those who are not in the system but wish they were, and to say that this option is not one-size-fits-all and needs to be tailored to individuals.

I think Bill 88 is a good bill, but it needs more teeth in the way of amendments to support the vulnerable youth who actually need the protection from their families and parents the most.

I am submitting the blueprint, of which I was one of the authors. Raising the age of protection is one of the recommendations. Thank you.

The Chair (Mr. Peter Tabuns): Thank you. You have a little over a minute left. Questions to the government.

Mrs. Amrit Mangat: Thank you for your presentation. I value your opinion. Thank you.

The Chair (Mr. Peter Tabuns): Ms. Damerla?

Ms. Dipika Damerla: That's all.

The Chair (Mr. Peter Tabuns): Okay. Thank you very much.

Interjection.

The Chair (Mr. Peter Tabuns): No, we rotate it one party at a time.

Thank you very much for your presentation this morning.

OFFICE OF THE PROVINCIAL ADVOCATE FOR CHILDREN AND YOUTH

The Chair (Mr. Peter Tabuns): Our next presenter is from the Office of the Provincial Advocate for Children and Youth. As you know, Irwin, you have up to five minutes. If you'd state your name for Hansard.

Mr. Irwin Elman: Hi. I'm Irwin Elman, the Provincial Advocate for Children and Youth. I guess I want to say first, to Mr. Jackson, change is hard. You're just proving that today. This is a long discussion, over decades, really, and it's important for it to happen for the first time here at the Legislature. It's a historic moment in many ways.

I want to say that I support the bill in principle. I want to be clear: I do have concerns, and we will make a submission that speaks to them.

You've heard from Kayla for the young people who led the hearings and for people at the hearings; and Michele, who was on the working group for MCYS. Those young people have told us that they want this bill passed.

I asked my staff in my office to look at the kinds of calls we had and the young people we've heard from over the past some months who might be touched by this bill. I heard about a young man who was gay—he was kicked out of his home—who had called us, 16, looking for help and his rights.

0940

We heard about an unaccompanied minor who was a refugee claimant, who was in a shelter in Toronto with no status in Canada—a refugee claimant—yet no support anywhere, looking for assistance.

We heard, as has been mentioned, about a sibling who was 16. Her sister was removed from the home by the child welfare system, but she had to either stay at home or fend for herself on her own.

All of those young people and more—I can explain other situations—were calling to say, "If the option was there for us to be in care, we would take it." That is what

we think needs to happen and why we think this bill is important.

The piece that I think is really crucial, however, is that it remains voluntary, that young people, particularly 16- and 17-year-olds, have to choose that this is the option that is going to work for them. So I want that to remain. I also want this not to undermine other options so that their ability to access income support systems, like OW, is not compromised by the choice that they now have to enter care. That's important.

Yet the people who choose to enter care, I want them to have the full range of support that the system can offer. I want them to be able to access what used to be called extended care and maintenance, if they so choose. I want the voluntary agreements to be longer than two months the way it's written, and it could be 24 months if the young person agrees. I want the voluntariness of the act to be more in favour of the young person in the child welfare system, because we know sometimes we create policy or practice or legislation even, and on the ground it's not implemented in the way that it was intended. I want the child welfare system, if the young person wants to be in care, to be almost compelled to provide the support that that child needs, not for it to be arbitrary, so in keeping with some of the movement of principles and policies that have been put in place.

I want to say one more thing—two more—which is the issue of capacity of child welfare. In the My Real Life Book, young people spoke about being left out of their own lives. This is particularly important for young people 16 and 17, even more so for young people who have stayed at home in difficult situations, who have found a way to cope. It is really difficult to work in a way where you take away their control and power over their own life—

The Chair (Mr. Peter Tabuns): One minute left.

Mr. Irwin Elman: And so I would say that we need to build capacity in the child welfare system. There's not been any change in the culture of the way that the system works to support young people being actors in their own lives all the way through. We need to do that to make this bill really effective. I know that's not your job, but that needs to happen. And we can look to other agencies and other partners for children's aid who know how to do that better, how to work with this population better, to help with the implementation.

Finally, it is important to recognize MPP Jackson for taking this opportunity to listen to young people. I notice Monique Taylor is here, and she has a private member's bill as well, and so does Soo Wong from the governing party, another MPP who put a private member's bill. It is amazing that young people came to this Legislature—you welcomed them in, allowed them to make it their home—and three parties, in a non-partisan way—

The Chair (Mr. Peter Tabuns): Thank you.

Mr. Irwin Elman: —three MPPs, private members' bills—

The Chair (Mr. Peter Tabuns): Mr. Elman, I have to thank you, and I have to call up the next presenter.

Mr. Irwin Elman: I hope you know where I was going with that. Thank you.

The Chair (Mr. Peter Tabuns): Thank you.

MAPLEVIEW COMMUNITY CHURCH

The Chair (Mr. Peter Tabuns): The next presenter: Mapleview Community Church. As you've heard, you have up to five minutes to present. If there's any time leftover, it will go to the opposition. Please state your name for Hansard.

Ms. Laura Durst-Fess: Perfect. Thank you. My name is Laura Durst-Fess.

The macro-level principles of Canadian law can be found in the Charter of Rights and Freedoms, a sovereign document which guides the creation and implementation of subservient laws. Breaches to the charter, whether in the area of human rights or issues pertaining to natural justice, may be appealed so that all Canadians can be guided by a judiciary which is stable and just. However, there is a systemic gap in place which maintains minor Ontarians in a position of vulnerability, as access to protection services is restricted, based on age eligibility.

This systemic discrimination has been appealed since as early as the 1969 Report on the Age of Majority and Related Matters, in which the Ontario Law Reform Commission recommended that the then-titled Child Welfare Act of 1965 change the definition of "child" from 16 years of age to 18. As a result, when the Child and Family Services Act was published in 1984, it defined a child as anyone who was under the age of 18. However, although both the Age of Majority and Accountability Act as well as the CFSA consider children to be any individuals who are under the age of 18, there are still a number of conflicting rights that some children have access to while others do not.

A national report entitled A Canada Fit for Children states that it is the government's responsibility to provide for the care of children and to ensure their protection when the child's parents are unable to do so. In order to carry out that responsibility, the Ontario government has mandated the children's aid society as responsible for organizing adequate services while fulfilling the directives of the CFSA.

As previously mentioned, the CFSA does now define any child as an individual under the age of 18. However, in section 15(3)(b), the act states that the children's aid society is only to "protect, where necessary, children who are under the age of 16...."

In other words, although the government formally recognizes their responsibility to provide protection to minors, they forfeit that obligation when the child is 16 or 17 years old. Therefore, whereby a 15-year-old child being abused by a caregiver is allowed protective services under the act, a 16-year-old child suffering similar abuse is not. Thus, since not considered a child or an adult, 16- and 17-year-olds are pushed into a demographic of adolescents whose services are undefined, nor assigned to a governing body.

For young people who cannot access protection services due to age restrictions, homelessness is a natural by-product. According to the 2012 OACAS report, young people in need of protection "often respond by running away and living on the streets. The lack of protection limits their prospects of a healthy, productive adulthood and leaves them vulnerable to substance abuse, teen pregnancy, depression, dropping out of school, exploitation and involvement in criminal activity."

Furthermore, the 2009 Raising the Roof report indicated that 67% of homeless youth grew up in a family that could not maintain safe housing; only 43% had previously been involved with CAS, not 80%; and 71% had been involved in the criminal justice system—clearly, a demographic of vulnerable citizens who are in need of protection.

The only escape from homelessness for 16- and 17-year-olds in need of protection is for them to attempt to access the adult welfare system. However, access is tedious and often too difficult to navigate unaided. Furthermore, unless special circumstances can be proven, the teen will not be eligible for support.

As previously mentioned, the overarching law through which the rights of Canadians are accounted for is known as the Canadian charter. According to section 15(1), "Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination" and, in particular, without age discrimination. Clearly, protection and equal benefit are not being afforded to 16- and 17-year-olds who are stuck in a systemic gap which maintains them in a position of vulnerability.

In 1990 Canada signed on to the UN's Convention on the Rights of the Child—

The Chair (Mr. Peter Tabuns): One minute left.

Ms. Laura Durst-Fess: —and became a ratified state in 1991. According to that agreement, "a child means every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier." Furthermore, the monitoring body known as the Committee on the Rights of the Child has urged all ratified states to set the age of majority to 18 and increase protection for all children who are under 18.

In order to adhere to the recommendations of the UNCRC, the most viable option for lawmakers would be to amend the CFSA, allowing all children under the age of 18 to appeal to the society for the protection services.

Royal assent of Bill 88 would ensure that protection services are provided to Ontarian minors in accordance with the UN Convention on the Rights of the Child. Although many arguments presented today may be concerned with the future directives of such a change, lawmakers must acknowledge that within the CFSA, age-based systemic discrimination is occurring and make a change.

It should be noted that provinces such as Manitoba, Alberta, BC and Yukon have already implemented child welfare policies which reflect those recommended—

The Chair (Mr. Peter Tabuns): Thank you. I'm afraid we have to go to the next presenter.

Ms. Laura Durst-Fess: That's okay. Thank you very much.

The Chair (Mr. Peter Tabuns): Thank you very much.

MR. DON WEBER

The Chair (Mr. Peter Tabuns): Our next presenter: Don Webber. Mr. Webber, you have up to five minutes. Please give your name for Hansard. If there's any time left at the end, you may be asked questions by members of the committee.

Mr. Don Weber: My name is Don Weber. Good morning. Thank you for the chance to make these remarks as an individual presenter.

I have been a case worker and manager with the children's aid society in Ontario, primarily working with youth in care. In early social work training, I learned a time-tested concept especially important for developing teens. It is that people have progress in their lives if three factors exist: capacity, opportunity and motivation. Capacity means having ability and potential; opportunity is equal access to meaningful supports; and motivation is self-confidence, with goals, feeling hope, almost always linked to helping relationships.

Bill 88 intends to assist this formula for youth whose fate has been the absence of sufficient primary support. It is about serving individual youth and the family. With the present mandate, if a family of three children, for example, aged 12, 14 and 16, require protective services, only the youngest two are eligible. Younger siblings can be separated from a secure connection to an elder brother or sister—particularly distressing if that person has been a dependable substitute caretaker.

The bill proposes that youth have voluntary access to service—youth who recognize and agree to support. That is capacity and potential.

Opportunity: This is Bill 88's key contribution, in my view, creating the legal doorway to already existing services. Services include: foster, kinship or community care; providing shelter, food and clothing; medical and dental care; counselling; recreation; driver's education; links to school; and employment guidance. I suspect many of the items on this sound like a description of fundamental parenting to you. But not all youth need the full array of services. It can be much, much simpler, on their independent terms.

One morning, the phone was ringing as I arrived at the office. It was Caitlin, aged 17, a crown ward living valiantly on her own since 16. She was in care prior to her 16th birthday due to chronic homelessness and family drug addictions. Being very wary of CAS service, she bluntly said, "What are you doing right now? I forgot to set my alarm. I have a term English test in one hour and I won't make it across town with two bus transfers. Can you drive me?" She has proudly become the first person in her family to complete high school. It is unlikely her future will involve the costly, long-term use of hospitals and courts. Teachers and friends have seen her need and

capacity and have given her added support—most importantly, hope to be motivated.

We cannot legislate hope, but opportunity and equal access to service can be legislated. I believe that's the intent of Bill 88.

The Chair (Mr. Peter Tabuns): Mr. Weber, thank you. As there is a division being called in the House, pursuant to standing order 128, I must suspend the committee meeting at this time to enable members to make their way to the chamber to vote. I'd ask members to return promptly, as the committee meeting will resume shortly after the vote in the House.

The committee recessed from 0953 to 1002.

The Chair (Mr. Peter Tabuns): I'd ask committee members to resume their seats so we can proceed. Mr. Fraser—

Interjection.

The Chair (Mr. Peter Tabuns): I know they're busy, but people want to make their presentations before we run out of time. If we can have the committee come back to order. Mr. Weber?

Miss Monique Taylor: He's done.

Mr. John Fraser: He's done.

The Chair (Mr. Peter Tabuns): The next, then, is Justice for Children and Youth, Johanna Macdonald. No?

Okay. Next, then, Quest Collegiate and Recovery Centres, Eileen Shewen. All right.

MR. NICOLAS STATHOPOULOS

The Chair (Mr. Peter Tabuns): We have Nicolas Stathopoulos by teleconference. Mr. Stathopoulos, can you hear me?

Mr. Nicolas Stathopoulos: Yes, I can. I was expecting to go on at 10 or 15 after, but I'm ready for you now.

Mr. Bill Walker: It's not loud enough.

The Chair (Mr. Peter Tabuns): We'll have to have the volume higher.

Mr. Nicolas Stathopoulos: Okay. I just mentioned that I was expecting to go on at 15 after. Am I on now?

The Chair (Mr. Peter Tabuns): We are moving you up because a number of other presenters weren't available. You have up to five minutes.

Mr. Nicolas Stathopoulos: All right, thank you. Ready?

The Chair (Mr. Peter Tabuns): Please proceed. State your name for Hansard.

Mr. Nicolas Stathopoulos: My name is Nicolas Stathopoulos, and I would like to thank the Standing Committee on Regulations and Private Bills for allowing me an opportunity to present my concerns and view on the subject of whether Bill 88 should be implemented into law. This committee's mandate to hear from the public is indeed a proper course to exercise in a democratic process, and in consideration of a variety of arguments or insights, either for or against the passing of any bill into law.

However, although I do appreciate the committee's function to gather a variety of views before the final reading, I also believe that there was not enough time allocated for Canadians to express their views on the matter of Bill 88 in relation to the "yes" side's ability to stack the cards in their favour.

By that I mean that any present Internet search today on the subject of Bill 88 will yield documents, videos and an impression of overwhelming support for the yes side, as documented by several journalists, politicians and social worker lobbyists, who, for the most part, remain hidden, having a vested interest to see the bill passed—all this in absence of a visible argument against Bill 88.

What is becoming apparent is evidence of a campaign that appears to be perceptually managed and void of the little opposition against it. It's very simple in today's world to attain a consensus: All one has to do is work unilaterally, apply commonly known methods for radical or basic social change, and never or seldom inform the public until PR teams have completed their objectives and are in place. By the time public consultation is called, such as this committee mandate to document public views, it's often too late to put up an effective opposition and convincing arguments, principally because of the time constraints implemented against the opposing side.

Bill 88's objective would lead to—although not documented as such—the privatization of welfare for young people 16 to 24 years old under the auspice and management of a public-private corporation, CAS, children's aid society.

It also references the United Nations Convention on the Rights of the Child, which is a controversial document created by a body of unelected officials to influence global national policies on social care. Care of Children in Welfare is also a document that is used to support the passing of Bill 88. Now the question is, why are we not creating our own policies, independent of the United Nations influence?

The children's aid society will no doubt be awarded the management of overseeing the privatization of welfare for young people between the ages of 16 and 24 through Bill 88. Consider the controversies behind the many agencies of CAS to date—

The Chair (Mr. Peter Tabuns): You have a minute left, Mr. Stathopoulos.

Mr. Nicolas Stathopoulos: —that are reportedly acting without accountability and are void of transparency in the way that they perpetually conduct their cases, mostly against defenseless or low-income families. These are documented cases, one after another. In mainstream media, social networks, you name it, everything is very well documented as to their inability to function properly. What can then be expected to become of their role to manage this additional authority over the family unit or over people between the ages of 16 and 24 in the privatization of welfare?

I would also like to add that the University of Southampton in the UK, two and a half years ago, decided to scrap teaching the curriculum of social work in their university, citing that there is no credible evidence that social work is a viable discipline and—

The Chair (Mr. Peter Tabuns): Mr. Stathopoulos, I'm sorry to say that we've run out of time, and I have to go to the next presenter. Thank you.

Mr. Nicolas Stathopoulos: Thank you, sir, for your time.

JUSTICE FOR CHILDREN AND YOUTH

The Chair (Mr. Peter Tabuns): I have Justice for Children and Youth next. Johanna Macdonald, if you'd have a seat and state your name for Hansard, you have up to five minutes. Please proceed.

Ms. Johanna Macdonald: Yes, thank you. I apologize for our delay after the break.

I am Johanna Macdonald. I'm a street youth legal services lawyer at Justice for Children and Youth. Mary Birdsell, our executive director, is also here. Justice for Children and Youth is a legal aid clinic in Ontario representing children and youth. We are the operating arm of the Canadian Foundation for Children, Youth and the Law.

A key component of my work at Justice for Children and Youth is to present legal options to homeless youth in order to help them find stability and security in their lives. Many of the clients at Justice for Children and Youth are unable to access child welfare services simply based on their age. We're pleased to submit to you today our support of Bill 88.

We would like to highlight four recommendations required in order to fulfill the intention of the bill.

Recommendation number 1: JFCY is encouraged that Bill 88 recognizes the UN Convention on the Rights of the Child. This is a monumental and important step in this legislation. However, Justice for Children and Youth recommends that section 1 of the bill be amended to state that the Child and Family Services Act should be amended to include a subsection (1.1) and that this act shall be interpreted in compliance with the UN convention. Right now the bill reads that it should comply, and only in reference to services. The representative from UNICEF also made mention to this amendment. I'll direct you to pages 7 and 8 of our written submission in regard to that for further clarification.

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Recommendation number 2 will also link to other presentations from this morning. This bill does not alter the protection services available to young people, and only the voluntary services. Because of this, we feel that it's necessary to make these temporary care agreements voluntary for the young person—yes, checkmark—but mandatory for the society where the young person seeks assistance. This is important so that the vulnerable position of the youth vis-à-vis the society is not stepped aside, so that there may be an obligation on the society to present and give those services. This is outlined at pages 8, 9 and 10 of our written submissions. We've included in the written submissions some specific language that may be helpful to you if you're unable to make these next amendments.

Recommendation number 3 is important and was also highlighted in some of the other presentations this morning. The temporary care agreement arrangement currently does not allow for the extended services for youth after they turn 18. We ask that this be possible in this bill, to make an amendment so that extended care agreements can be made for these youth entering the temporary agreements in this bill, as it's highlighted. This is outlined at pages 10 and 11 of our written submission and there is some sample language in there as well.

The fourth amendment is critical and it's in regard to the time limits and restrictions of the current agreements. We ask that you look to page 12 of our written submissions in regard to—

The Chair (Mr. Peter Tabuns): One minute left.

Ms. Johanna Macdonald: —not having it be a limited six-month extended agreement but one that can continue on continuously so that youth are able to enter into agreements and feel the stability and support that these agreements are supposed to uphold.

These amendments are long overdue. Justice for Children and Youth has conducted cross-jurisdictional research on child welfare services in Canada and we found that Ontario remains the only jurisdiction in Canada that severely limits access to child welfare services in this way. A 16-year-old child in Ontario has fewer options available to them to obtain care as compared to every other jurisdiction in Canada. With the short turnaround, we were able to access a number of our partners throughout Ontario and Canada. Unfortunately, some of them weren't able to come today, but we have had a petition—

The Chair (Mr. Peter Tabuns): Thank you. I'm afraid I have to go to the next presenter.

Ms. Johanna Macdonald: —and we'll be sending that to you. Thank you very much.

The Chair (Mr. Peter Tabuns): Good shot.

Quest Collegiate and Recovery Centres? Not here?

CANADIAN HOMELESSNESS RESEARCH NETWORK

The Chair (Mr. Peter Tabuns): Canadian Homelessness Research Network. Sir, if you would introduce yourself for Hansard and have a seat. You have up to five minutes.

Mr. Stephen Gaetz: Thank you. My name is Stephen Gaetz. I'm a professor at York University and director of the Canadian Homelessness Research Network. At the CHRN, we strongly believe that government policy and service practice must be informed by research. When we formulate our positions, we don't just say, "I read a paper"; we actually read them. We strongly support this proposed bill because we absolutely believe that changes are needed to our child protection laws in light of the evidence that suggests both that transitions from care are contributing to youth homelessness and also that changes in our social and economic structure in Canada necessitate changes in how we think about child protection.

Research consistently points to the high percentage of homeless youth who have had some involvement with child protection services, including foster care, group home placements and youth custodial centres. I have references for all of that; I've got about eight from Canada. I personally have conducted three research projects in Toronto since 1999, large-scale projects on youth homelessness, and across all of those studies the percentage of young people who were homeless and who had been either in group homes or foster care was between 41% and 43%, so we have a problem. The consequences of these transitions from child protection into homelessness mean that young people don't get an education, their health declines and their chances of addictions issues increase, so we need to do what we can to work to prevent that.

In addition to thinking about that flow from child protection into homelessness, which is demonstrated, we also have to think about the necessity of updating our laws and practices based on, as I say, socioeconomic changes in Canada.

Why is this? Many of our systems that are in place to deal with young people are based on what worked in 1950, when you could leave home at 16, get a job in a factory, work there for the rest of your life, and get an apartment.

The world has changed quite dramatically since that time. In the last census, Statistics Canada found out—this is 2011—that the percentage of young people between 20 and 29—that's not between 15 and 20, or 20 to 25, but between 20 and 29—who live with their parents is 42.3%. Those of you who have kids, fasten your seat belts.

This is important. It isn't that young people don't want to leave home, believe me. I have a 20-year-old who's dying to get out. There aren't the jobs. Work is now part-time and minimum-wage, and the cost of housing has risen dramatically. Not only that, we've seen a rise in credentialism, so for good jobs you need a university degree, minimally a bachelor's but possibly higher.

So the world has changed for young people. It's not the same as it was, and when we have systems in place that assume that someone can leave care at 18, or not even access care when they're 16, that's highly problematic. We definitely need to update this.

Jurisdictions around the world have made quite dramatic changes to child protection laws—

The Chair (Mr. Peter Tabuns): One minute left.

Mr. Stephen Gaetz: One minute?

The Chair (Mr. Peter Tabuns): Yes.

Mr. Stephen Gaetz: No problem.

The UK has made many changes; Australia has as well; and in provinces across Canada, there have been changes.

Finally, I want to end by talking about the recent Blueprint for Fundamental Change to Ontario's Child Welfare System, by the Provincial Advocate for Children and Youth, which is an excellent document, well researched, that outlines what we need to do to make changes.

I'm going to end with a cliché: Children and youth are our future, and we have to bring our laws up to date to make sure that every young person in this province has a chance—not just my kids, but every child. Thank you.

The Chair (Mr. Peter Tabuns): Thank you very much.

NATIONAL ASSOCIATION FOR PUBLIC AND PRIVATE ACCOUNTABILITY

The Chair (Mr. Peter Tabuns): I'm going back up the list: Archbishop Dorian Baxter, of the National Association for Public and Private Accountability.

Archbishop, if you would have a seat. You have up to five minutes, although I might shave it a bit, because we're going to have to get into the chamber and we have a few other people who want to speak. Please state your name and proceed.

Archbishop Dorian Baxter: Yes. My name is Dorian Baxter, and I am the Archbishop of the Federation of Independent Anglican Churches of North America. I was ordained here at St. James Cathedral by Archbishop Garnsworthy 30 years ago.

My main reason for being here is to state my very serious concerns about the possibility of this Bill 88 being passed. I first of all want to thank you, Mr. Chairman, and your standing committee for arranging for this get-together, because I think it's very, very important.

I speak out of the crucible of personal suffering. Some 28 years ago, my children were subjected to horrendous behaviour by the Children's Aid Society of Durham. I'm grateful to say that, after an 11-month battle, I was awarded sole custody, and I launched a massive lawsuit—unprecedented—against the Durham CAS.

Now, I should point out that, on the March 22, 1994, Justice Somers found that the Durham Children's Aid Society in general, and one Marion Van den Boomen in particular, were guilty of the grossest negligence, the grossest incompetence, malicious prosecution and blackmail.

As a direct result of that, the social worker was given a slap on the wrist and transferred from Durham to London, where Ms. Van den Boomen continued to do 20-odd years of untold damage. She now has a pension, and the accountability was zero.

I mention this because the entire episode cost me a grand total of $387,000, from which I still reel today. But when I won that case, I had 130 people contact my lawyer, Mr. Donald J. Catalano, and they asked me to assist them, and I realized that there is such an unbelievable avalanche of bullying that goes on.

We all need a children's aid society. But as you are aware, Mr. Chairman, and I'm sure the committee is aware, power corrupts, and absolute power corrupts absolutely. For many years, thousands of us have been calling on the province of Ontario to give power to the Ontario Ombudsman.

My fear and my concern—everything that I have alluded to is documented in the papers that I have submitted to Valerie. But I would like to say this: As I speak

to you today, I am engaged in several cases—nine, to be exact—involving the children's aid society, two of them involving the very society that I had the honour and the privilege of bringing to justice. My action shattered the immunity of the children's aid society forever.

1020

The trouble is, there is no accountability. And I will be candid with you, Mr. Chairman, and your committee.

The Chair (Mr. Peter Tabuns): You have one minute left.

Archbishop Dorian Baxter: Thank you. I'm very concerned that if, in fact, this bill passes, the very problems that we are encountering for young people from the age of zero to 16 will be multiplied phenomenally. Right now, you must be aware that police have a 27-page booklet that offers all kinds of resources. I'm sure that MPP Jackson—if he knew what I'm telling you and he would only take time to see this, he himself, I believe, would vote against this bill.

I think what we really need more than anything is accountability. We do not need to give any more power to an organization that has already shown that it needs desperately to be held accountable.

I would conclude my comments—I think you said I've got another 30 seconds—to simply thank you again. But I would say, please, give a sober second thought. Do not allow this bill to pass. It will usher in a Pandora's Box of tyranny beyond human comprehension.

I am more than happy to speak to any member of the committee and show all the documentation that I've alluded to and more. I would just like to say thank you very much indeed for affording me the opportunity. It took me three hours to get here. Thank you for being so gracious. I do hope that you will pay serious attention to the written documentation as well.

The Chair (Mr. Peter Tabuns): Thank you.

MS. LINDA PLOURDE

The Chair (Mr. Peter Tabuns): I have to go to the next and last presenter: Linda Plourde. Linda, our time is short. You have about three minutes on the clock. If you could state your name.

Ms. Linda Plourde: Thank you so much. I'm going to try to make it very quick, because I have a very strong message to send, and I'm not a professional so I'm not a good speaker. However, I am here on behalf of the 719 children who have died in care in Ontario alone. Between 2006 and 2012, 719 children died under the supervision of children's aid. Children's aid is a corporation, privatized. They're there for profit; they're not there for the children.

I would like to show I have travelled Canada on my own. I don't get paid. I travel Canada. I give tours. I went to Washington, DC. It's a global crisis, what we have under children's aid. They even have the audacity to say on their sign, the children's aid, "Today's children, tomorrow's parents." They are setting up our children.

This is what happened—and I want you to look at these children—before they go in to foster care, and after they are apprehended. I went to over a hundred funerals. I went and spoke to each and every single family—not to children's aid; I go and talk to the parents. When they write to me—almost every month, some parent contacts me and says, "My child died. They died in foster care. They're supposed to be protected."

Children's aid has to be abolished. It's a business, and we, the adults—each and every one in this room, each one of you—are responsible for the deaths of these children because we're not acting up. We're not acting up. It's our responsibility to help these children [*inaudible*] four months, six days after in care, she died.

The Chair (Mr. Peter Tabuns): Ms. Plourde, you have about 30 seconds left.

Ms. Linda Plourde: So basically, what I'm saying—I have gone to Tim Hudak. I have gone to Andrea Horwath. I wrote thousands of letters. What I'm begging each and every one of you today is to please think about the children. No career is worth the life of a child—none.

The Chair (Mr. Peter Tabuns): Thank you for your presentation today.

Ms. Linda Plourde: Thank you.

The Chair (Mr. Peter Tabuns): That concludes our business. I'd like to remind members that the deadline to file amendments with the committee Clerk is on Monday, December 9 at 12 noon.

Committee is adjourned until next Wednesday, December 11.

The committee adjourned at 1025.

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ISSN 1180-4319

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Second Session, 40th Parliament

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Comité permanent des règlements et des projets de loi d'intérêt privé

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Clerk: Valerie Quioc Lim

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Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario

Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 11 December 2013

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Mercredi 11 décembre 2013

The committee met at 0900 in committee room 1.

CHILD AND FAMILY SERVICES AMENDMENT ACT (CHILDREN 16 YEARS OF AGE AND OLDER), 2013

LOI DE 2013 MODIFIANT LA LOI SUR LES SERVICES À L'ENFANCE ET À LA FAMILLE (ENFANTS DE 16 ANS ET PLUS)

Consideration of the following bill:

Bill 88, An Act to amend the Child and Family Services Act with respect to children 16 years of age and older / Projet de loi 88, Loi modifiant la Loi sur les services à l'enfance et à la famille en ce qui concerne les enfants de 16 ans et plus.

The Chair (Mr. Peter Tabuns): The Standing Committee on Regulations and Private Bills will now come to order. We're here for clause-by-clause consideration of Bill 88, An Act to amend the Child and Family Services Act with respect to children 16 years of age and older.

Please note that I will put the question on consecutive sections that have no amendments together, but members may request to vote on each section individually.

Are there any comments or questions before we begin? There being none, are there any comments, questions or amendments to any section of the bill? If so, to which section beyond what we've already received? Ms. Mangat?

Mrs. Amrit Mangat: Thank you, Chair. I would like to move a motion to amend section 3 of the proposed Bill 88, and I'll read the amendment.

The Chair (Mr. Peter Tabuns): If it's section 3, then I'm going to hold that down until we get to that.

Mrs. Amrit Mangat: Okay.

The Chair (Mr. Peter Tabuns): Have copies been provided to the Clerk?

Mrs. Amrit Mangat: Okay.

The Chair (Mr. Peter Tabuns): No, have you provided a copy of your amendment to the Clerk?

Mrs. Amrit Mangat: No, not yet.

The Chair (Mr. Peter Tabuns): Okay. Thank you. When we get to section 3, I'll call for the amendments and we'll proceed from there.

Mrs. Amrit Mangat: Thank you.

The Chair (Mr. Peter Tabuns): We'll go, then, to section 1.

Shall section 1 carry? Carried.

Section 2: I see that there are amendments. Mr. Jackson, the floor is yours.

Mr. Rod Jackson: Thank you, sir. I'd like to move that subsection 2(1) of the bill be struck out and the following substituted:

"2.(1) Section 29 of the act is amended by adding the following subsections:

"'Same—child 16 or older

"'(1.1) A child who is 16 years of age or older and the society having jurisdiction where the child resides may, at the request of the child, make a written agreement for the society's care and custody of the child if the person who has custody of the child is temporarily unable to care adequately for the child.

"'Same—no refusal

"'(1.2) If a child makes a request for a temporary care agreement under subsection (1.1), the society shall not refuse to make the agreement.'"

The Chair (Mr. Peter Tabuns): Do you want to speak to this?

Mr. Rod Jackson: Just briefly, Chair, I would just say that this is making sure that the intent of the bill is clear: that once a child volunteers for care, they can't be refused care.

The Chair (Mr. Peter Tabuns): Okay. Are there any further comments by members of the committee? Ms. Taylor?

Miss Monique Taylor: Thank you, Chair. I would just like to note that we also put an amendment forward that is pretty much exactly the same, so we would fully support this amendment.

The Chair (Mr. Peter Tabuns): Okay. That's it?

All those in favour of this amendment? Opposed, if any? Okay. The amendment is carried.

The next amendment: Mr. Jackson.

Mr. Rod Jackson: I move that section 2 of the bill be amended by adding the following subsection:

"(6) Section 29 of the act is amended by adding the following subsection:

"'No bar on extended care

"'(11) For greater certainty, nothing in this section prevents a society or agency from providing care and

maintenance to a person under section 71.1 or the regulations.'"

The Chair (Mr. Peter Tabuns): If you would like to comment?

Mr. Rod Jackson: Just briefly, Chair, this just, again, strengthens the intent of the bill, which is to make sure that no child, no matter at what age they enter into care, is refused any care that is potentially provided by the association, no matter what their age—into further care.

The Chair (Mr. Peter Tabuns): Any further debate? Ms. Damerla?

Ms. Dipika Damerla: Chair, this is just a point of clarification, both with the former amendment and this one: Does this mean that if you are 16 years old and you have a fight with your parents—you're not being abused or anything, but you had a fight—and kids get into it and run away, they would get care regardless? Is that the intent of this?

The Chair (Mr. Peter Tabuns): Mr. Jackson?

Mr. Rod Jackson: Thank you, Chair. The intent of the bill in its entirety is to make sure that children who are abused and volunteer for care get that care, the same as any child under the age of 16 would get. It's really filling in a human rights gap that every other province has filled.

The intent of the first amendment—if I could just move back to that, Chair—is to make sure that they aren't refused care if they do volunteer. That was the intent of the bill all the way along, so we just wanted to make it explicit that if they volunteer themselves for care, they cannot be refused.

This part of the bill makes sure that it's clear that they can receive all care and ongoing care that any child who enters care before they're 16 years old would be entitled to as well. Just because they enter care at 16 and they get care, they can't be refused any piece of that care moving forward to the age of 21.

The Chair (Mr. Peter Tabuns): I have Miss Taylor.

Miss Monique Taylor: Once again, we put an amendment forward almost identical to this one, and we will be supporting this one also.

The Chair (Mr. Peter Tabuns): Okay. Any further debate? Mr. Fraser.

Mr. John Fraser: Yes. Just further to my colleague's point here, I think what she's driving at is, if you take a look at persons under the age of 16, the case for apprehension or making people wards of the crown is generally not a consent from the individual. Because they're under 16, it's something that's done through an advocate. That's the concern that she was expressing. It was saying, what happens when a person puts himself—the risk of somebody putting themselves into care without fully understanding that, still being a young person and maybe having a dispute.

I agree with the principle of the bill. I want to state that. The challenge is, how do you make sure that the rigour that's put around a child going into care remains the same between 16 and 18 as it is up to the age of 16?

The Chair (Mr. Peter Tabuns): That's your concern?

Mr. John Fraser: Yes.

The Chair (Mr. Peter Tabuns): Do you have a further comment?

Mr. Rod Jackson: I would just say, to allay your concern, that I think the same rigour would be attached to anyone who offers himself into care, or volunteers to care, from 16 onward as would happen if they were from zero to 15. I would expect that the same sort of standards would apply.

In other words, if a child has a dispute with their parent and goes and asks and volunteers himself for care, there is an obligation for the society and for the investigation into any abuse by that family. If we're talking about a potentially frivolous case, if that's what you're kind of edging at, I think the same rigour would be applied.

I would like to think that that is something that is less of a worry than worrying about children who have been abused every day of their lives since they were one to 16 years old who don't get care.

Interjection.

The Chair (Mr. Peter Tabuns): Mr. Fraser, sorry.

Interjection.

The Chair (Mr. Peter Tabuns): No, Mr. Fraser.

Mr. John Fraser: All right. Sorry. My apologies.

The Chair (Mr. Peter Tabuns): You're finished your statement?

Mr. Rod Jackson: Yes.

The Chair (Mr. Peter Tabuns): I have Ms. Damerla. Are you just doing a follow-up to that question?

Mr. John Fraser: I'm just doing a follow-up to that question.

The Chair (Mr. Peter Tabuns): Follow up the question.

Mr. John Fraser: I just want to say that there is a difference, and I agree with the principle of what you've put forward here. I support the bill. I just wanted to be on the record for saying it is a concern. I think it's a concern that there is a difference, because you're having somebody volunteer to care. So when this bill is applied, we have to understand exactly how we're going to make sure that works so we don't have—I don't want to say cases that don't have the same level of merit.

It is a challenge, not only from the government's point of view, but from the parental point of view. If you can imagine yourself a parent, you say to your child—you have a dispute, and that child goes and volunteers himself to care, and then you've got a situation where they can't be refused care. Then you're in a situation where it's difficult to untie that.

The Chair (Mr. Peter Tabuns): Okay. I have Ms. Damerla on my list. Ms. Damerla?

Ms. Dipika Damerla: Again, Rod, I just want to say that I support the intent of the bill, which is to bridge the gap. Let me rephrase my concern another way. What's the exit clause where—I'm the mother of a 15-year-old right now. Perhaps I lay down the law. She decides she

wants to leave home. I hear your point: At first blush, the benefit of the doubt goes to that child and they go into care.

What's the exit clause? Is it that as long as that child wants to be in care, they are in care? Or is there a process by which it's determined, "Well, you're not such a bad mother after all and—you know what?—end of care." That's the part that I'm not clear on. Is this the child's desire at 16, whether they continue to be a ward of the crown, regardless of what is proved? What's the exit clause from a parent's point of view, where a 16-year-old has just run away away because they don't like the rules of the home?

0910

The Chair (Mr. Peter Tabuns): Thanks, Ms. Damerla. Mr. Jackson, and then I'll have Miss Taylor.

Mr. Rod Jackson: To me, this is just us filling a gap here. These kids are going to have—the same rules are going to apply for kids who are 16 years old and 17 years old as apply from zero to 15. We're not changing anything; we're not rewriting the law here. All we're doing is allowing these kids who are 16 and 17 to have the same rights as the kids who are from zero to 15. The same rules are going to apply, the same exit clauses are going to apply, but I would refer to legal counsel to allay maybe some of your concerns about it, because she may have more familiarity with these ins and outs than I do with the legalities of it.

The Chair (Mr. Peter Tabuns): Counsel?

Ms. Julia Hood: I'll just comment to point out that the amendments being proposed are all in the context of section 29, which deals with temporary care agreements, which are voluntary care agreements currently available, actually, only to children under the age of 16. So it's extending the availability of that type of care agreement to children aged 16 and 17.

This is limited to voluntary agreements. This isn't where a child is taken into custody. I can't really speak to the ins and outs of the Child and Family Services Act and all of its mechanics, but this is a very discrete area, actually, and a certain type of agreement, as opposed to the whole scheme of taking children into custody. This is where children agree to the care. So it's not by court order or any of those mechanisms you were referring to.

The Chair (Mr. Peter Tabuns): Miss Taylor.

Miss Monique Taylor: Our understanding is that the teenager would be consenting to care, not necessarily volunteering themselves to care. Do you know what I mean?

Interjection.

The Chair (Mr. Peter Tabuns): Could you please explain what you mean?

Miss Monique Taylor: They would be consenting. It wouldn't be about the runaway who's just saying, "You know what, Mom? I've had enough." Children's aid would obviously be able to do their due diligence, as they would through any case that they would possibly do. It would be about that child consenting to say, "Yes, I agree that I will go to the children's aid society." It's stopping the fact of a 16-year-old or a 17-year-old who's refusing to go, but it would still have that open door of the child who is consenting to say, "Yes, this thing is the best for me to happen."

The Chair (Mr. Peter Tabuns): Okay. I now have Fraser and Damerla. Mr. Fraser.

Mr. John Fraser: I think the difference that I'm trying to drive is that in a case where you're applying for voluntary care, it will be the parent who would apply under the age of 16. Is that correct?

Ms. Julia Hood: Yes, but—

Mr. John Fraser: Okay. So—

Interjection.

Ms. Cindy Forster: Ages 16 and 17, sorry.

Ms. Julia Hood: And over the age of 12, the child has to agree to also be a party to the agreement. So the child is volunteering for the care as well.

Mr. John Fraser: Just for a point of clarification, at the age of 16, is it still necessary for the parent—

Ms. Julia Hood: No, the parent is not involved in these agreements. The only thing about the parent that is a necessary part of these agreements is that the person who has custody of the child is temporarily unable to care adequately for the child. That's the only component of the parent or other person not being able to care for them.

Mr. John Fraser: Again, I support the bill. I wanted to highlight that there is a potential for something that would not be the intention of what was put forward that may have an impact on parents. I think we need to, going forward, be very mindful of that. That was my point. Thank you.

The Chair (Mr. Peter Tabuns): Okay, Mr. Fraser. Ms. Damerla.

Ms. Dipika Damerla: I don't want to belabour the point, but Monique, just to what you said, I'm not sure I understood your difference between the runaway and the non-runaway. The way the act is now laid out distinguishes between those two, because as I understand it, that's precisely the issue: the runaway child.

Anyway, there's no point in belabouring this point anymore, but conversation is good.

Miss Monique Taylor: No, no.

The Chair (Mr. Peter Tabuns): Ms. Damerla?

Ms. Dipika Damerla: No, I'm done, but I don't see the distinction that you see between the runaway child and—

The Chair (Mr. Peter Tabuns): Miss Taylor, do you want to respond?

Miss Monique Taylor: I just think that there is a difference between the child consenting and just straight out volunteering. I think that there has to be something, and I would also go to legal counsel and ask the same question, to make sure that we are clear on the fact that a child can't abuse the system. Can there be a provision to that account?

The Chair (Mr. Peter Tabuns): Are you asking a question right now?

Miss Monique Taylor: Yes, of legal counsel, please.

The Chair (Mr. Peter Tabuns): Counsel?

Ms. Julia Hood: There is a new provision being added here that deals with or contemplates a child abusing this being open to them. I don't know whether there is a difference between them volunteering for care, which is putting themselves forward for it, or consenting to it. I couldn't really speak to that.

The Chair (Mr. Peter Tabuns): Miss Taylor, do you have a further question?

Miss Monique Taylor: Thank you. You said that there was a part where the parent—where was that?

Ms. Julia Hood: Well, this is all back on the first motion that was already carried. In the new 1.1, one of the sort of components of the child entering into the care agreement is that the person who has custody of the child is temporarily unable to care adequately for the child.

Miss Monique Taylor: Exactly. It says right there that the parent would be unable to care for the child. Would that not make the difference? We're not talking about a parent who is able to take care of their child and that the child is being—

Mr. John Fraser: Just to go back to what my concern is, you have a situation where the child is accepting and wanting to go into care and you may have a situation where that action—I don't want to say it's frivolous, but it may not be fully thought out by that child. How do we make sure, as we do in cases of people voluntarily going into care or being taken into care, that we don't end up in the situation where a 16-year-old goes and says, "I've had enough. I'm not going to stay at home any longer. I want to go into care"—which is not an unreasonable thing to do; we can all think of how we've all been there.

The concern is, how do we make sure that we don't get things that put families in a situation that is not the right thing? What we're doing is the right thing. I'm just concerned about that. I think of myself as a parent or as a 16-year-old—not that I ever would have done that. But when I was thinking about this and listening to your amendment, that's what concerns me.

The Chair (Mr. Peter Tabuns): Okay, Mr. Fraser. Mr. Jackson, and then Ms. Damerla.

Mr. Rod Jackson: I understand your concern. I don't actually disagree with your concern either. I don't have the whole law in front of me right now that Bill 88 amends, but I do have enough familiarity with it to know that there is an obligation whenever there is an accusation or a reason to believe that a child might be in a dangerous situation or abused—in that bill, there is an obligation for an investigation into that situation.

I would think that if someone volunteers themselves for care, that would trigger an investigation, which would then determine whether or not that child is actually the victim of abuse of any sort that would entitle them or require them to enter into care, or validate their volunteerism.

Now, whether or not that investigation that is undertaken is done appropriately or done well is another fight for another day, which I think some people in our communities would like to take up, but the fact is that there is an obligation in the law currently for anyone who has reason to believe that there is abuse happening. They need to report that abuse and an investigation needs to be undertaken.

I would say that that is the safeguard there. There is an investigation that needs to happen as a result of someone being aware that there may be abuse in a family.

The Chair (Mr. Peter Tabuns): Okay. I have Ms. Damerla.

Ms. Dipika Damerla: Actually, MPP Jackson, that is my concern. This is my understanding: The way the bill is written now, the proposed bill does not provide CAS with the authority to investigate protection concerns related to youth 16 or 17. It does raise that legitimate concern of a runaway child who is just not happy with what their parents are saying: "Don't smoke," or whatever it is that is the contentious issue.

0920

There is no mechanism at that point—if that child volunteers themselves for care, the state is obliged to provide the child with that care, which could inadvertently be leading to the breakdown of a family because there is no mechanism to exit out of this if the child insists on being a ward of the crown. That is problematic in the bigger scheme of things, not when there is abuse, but when there is a child who just wants to run away.

So, again, it's not the intent of the bill but the unintended consequence of the way it has been worded, because I heard you say that it would be investigated, but our understanding is that the way it's written, the bill does not provide CAS with the authority to investigate protection concerns. When you sign these temporary care agreements, the way the bill is written, the assumption is that a parent has been negligent, but no investigation has been conducted. So this is a concern I raised right at the beginning—closing the loop on that.

The Chair (Mr. Peter Tabuns): Okay. I have Mr. Jackson.

Mr. Rod Jackson: I would just say that maybe this bill doesn't address that specifically. If you have an amendment that you think would fix this, I would welcome it.

I would say, though, to keep in mind that Bill 88 is an amendment to the Child and Family Services Act, which does require an investigation. So although Bill 88 doesn't explicitly ask for an investigation, or it doesn't have that specifically in the bill, the act that it amends does.

Ms. Dipika Damerla: But the act doesn't cover youth 16 or 17—

The Chair (Mr. Peter Tabuns): I'm sorry.

Ms. Dipika Damerla: Oh, sorry.

Mr. Rod Jackson: Well, it will after it's amended.

The Chair (Mr. Peter Tabuns): Okay. Go on.

Mr. Rod Jackson: So it will after it's amended. Now, like I said, the intent of this isn't to create a bigger problem than exists, and I'm open to any suggestion to fix that gap, because that's not the intention of the bill, to ruin families. I don't think anyone wants to do that,

right? We all know how volatile some 16- and 17-year-olds can be.

Having said that, I really, honestly, believe from the bottom of my heart that this is a much smaller problem than the one that we're solving, and I think we need to keep that in perspective. So if it does create a bit of glitch and a problem in the system, first of all, I believe that it is manageable within the act that Bill 88 amends, but I also believe we need to keep in perspective what we're trying to do here.

What we're trying to do is to save some lives of kids. If, along the way—by the way, we're not even talking about the massive amount of children this bill will help, really. I mean, we're talking about hundreds, maybe a thousand kids. That's a lot. In my mind, if it helps one, that's enough. In that number of kids that this bill helps, if it saves lives and gives them the potential to live a stronger life, then if there's a problem that it creates within a family, I'm not saying so be it, but I think it's a small price to pay in the grand scheme of things.

Having said that, if you have an amendment that you think would make sure that that doesn't happen and doesn't weaken the intent of this bill, I welcome it.

The Chair (Mr. Peter Tabuns): Okay. I have Mr. Walker.

Mr. Bill Walker: The way I'm interpreting this, to where my colleague is speaking, the key here is, "if the person who has custody of the child is temporarily unable to care adequately...." So I think there's going to be due process and due diligence. No one here wants to ramp up numbers and just let anybody in on a—and, again, we're all hesitant to use that "frivolous" word. But there's got to be a screening process. There have to be people who are professionals who are monitoring and going through criteria: "Is this person abused? With this person, are the parents unable to care?" So I think it's absolutely critical that we look at this.

This is already in place. It's no different than anyone coming through the door currently. It's just extending the provision to the 16- and the 17-year-old that exists for the 15-year-old.

The Chair (Mr. Peter Tabuns): Thank you. Ms. Mangat.

Mrs. Amrit Mangat: Thank you, Chair. I appreciate the member from Barrie, Rod Jackson, for all his work. We are all committed to improving the lives of vulnerable children and youth. In my opinion, I have a problem with the language of the proposed bill because it doesn't deal with the children who have developmental disabilities. So in my opinion, it's a flawed bill.

Mr. Bill Walker: It's what? Sorry.

Mrs. Amrit Mangat: Flawed.

Mr. Bill Walker: Flawed?

Mrs. Amrit Mangat: Flawed. Yes.

Can he throw some light—what does he suggest when it comes to children with disabilities?

The Chair (Mr. Peter Tabuns): I will let him speak to that, but I'm not sure that he's addressing that in this amendment.

Mr. Jackson, please?

Mr. Rod Jackson: This may allay some of your concerns and, frankly, a concern I share myself too. I might need unanimous consent to move forward on this, but you can tell me how I need to do this.

I just want to say, before I make any further amendments to the motion, that the bill does say "for anyone who is temporarily unable to care for the child." So this is a situation that is temporary in nature. This bill says that if this child wants to voluntarily enter into care, it's temporary in nature.

You can't become a ward of the crown without legal proceedings. This bill enables kids who are in a dangerous situation to immediately seek care. It doesn't make them a ward of the state. They still have to go through the legal proceedings to make them a ward of the state. That's in the act that this bill amends.

Having said that, Chair, for the first of my motions that I moved today, the amendment that I moved—

The Chair (Mr. Peter Tabuns): The one that was already passed?

Mr. Rod Jackson: The one that was already passed.

The Chair (Mr. Peter Tabuns): Yes?

Mr. Rod Jackson: I have an addition to that, if I can have unanimous consent to move it, that I think might allay some of the government's concerns.

The Chair (Mr. Peter Tabuns): Is there unanimous consent?

I've had sage advice from the Clerk to recess for a minute. Consider yourself recessed for up to five minutes.

The committee recessed from 0925 to 0945.

The Chair (Mr. Peter Tabuns): That was a long five minutes. Very roughly, the procedure is I need unanimous consent to stand down the amendment we were debating. Could I have unanimous consent to do that?

Ms. Dipika Damerla: Sorry, what does that mean, "stand down"? The original one that was passed?

The Chair (Mr. Peter Tabuns): No, number 2. We were debating an amendment. I need to stand down that debate so that we can go to other business. Everyone is agreeable?

Miss Monique Taylor: Sorry?

The Chair (Mr. Peter Tabuns): Everyone is agreeable to stand down the debate on the amendment which we were engaged in just prior to this discussion? Good; carried.

Now I need unanimous consent to reopen the first amendment, number 1. Agreed.

I don't believe I need unanimous consent to have Mr. Jackson move his amendment, but before I go there, Ms. Damerla?

Ms. Dipika Damerla: Just because I'm new to the process, I'm trying to understand what's taking place—

The Chair (Mr. Peter Tabuns): As am I. Go on.

Ms. Dipika Damerla: Why can't Mr. Jackson just amend the amendment? Why does it have to revisit—

The Chair (Mr. Peter Tabuns): Because it was passed.

Ms. Dipika Damerla: Okay, I see.

The Chair (Mr. Peter Tabuns): You all voted in favour—

Ms. Dipika Damerla: In favour of it. So is it being undone, that vote? Is that what you're trying to do?

The Chair (Mr. Peter Tabuns): It is being undone so that we can amend it. We will have to vote again on an amended amendment.

Ms. Dipika Damerla: Okay.

The Chair (Mr. Peter Tabuns): It did pass, if you remember.

Okay, so we've reopened—unanimous consent to reopen was done. We're on number 1. Mr. Jackson, I understand that you have an amendment that has been reviewed with I think everyone in this room?

Mr. Rod Jackson: I hope so, sir. I move that subsection 29(1.2) of the act, as set out in PC motion number 1, be struck out and the following substituted:

"Same—no refusal

"(1.2) If a child makes a request for a temporary care agreement under subsection (1.1), the society shall not refuse to make the agreement if the society determines that the person who has custody of the child is temporarily unable to care adequately for the child."

Chair, I believe this goes a long way to allay some of the concerns the government had with this bill. Hopefully they will appreciate the spirit of going back and actually striking out an amendment that had already passed in order to accommodate that concern and hopefully ensure a speedy committee today.

The Chair (Mr. Peter Tabuns): Good. Any further debate? Mr. Fraser?

Mr. John Fraser: I'll be supporting the motion.

The Chair (Mr. Peter Tabuns): Excellent. Any further debate? Ms. Damerla?

Miss Monique Taylor: Can I have clarification, please? So (1.1) is still the same as what we had passed; we're just changing (1.2)?

The Chair (Mr. Peter Tabuns): That's what this amendment is about.

Miss Monique Taylor: Correct, fine. I'm good then, thank you.

The Chair (Mr. Peter Tabuns): Everyone is clear? All those in favour of the amendment? All those opposed? It carries.

Then we go to amendment 1, as amended: All those in favour of this amendment 1, as amended—sorry; any debate? All those in favour? Opposed? It's carried.

We have corrected that one. We are back to debate on PC motion 2. Is there any further debate on this motion? There being none, all those in favour? All those opposed? It's carried.

Are there any further amendments? Ms. Taylor.

Miss Monique Taylor: Thank you, Chair. I move that section 2 of the bill be amended by adding the following subsection:

"(6) Section 29 of the act is amended by adding the following subsection:

"'No bar on extended care or income support

"'(11) For greater certainty, nothing in this section prevents the following:

"'1. A society or agency from providing care and maintenance to a person under section 71.1 or the regulations.

"'2. A person who is otherwise entitled to basic financial assistance under the Ontario Works Act, 1997 or income support under the Ontario Disability Support Program Act, 1997 from receiving that support or assistance.'"

0950

The Chair (Mr. Peter Tabuns): Would you like to speak to this?

Miss Monique Taylor: I certainly would. Thank you, Chair.

This covers something that was brought to our attention through submissions from the child advocate. It's about kids who are brought into care and they're able to receive Ontario Works or any kind of financial support—from that support being taken away from them, and then them not having the ability to have the necessities that they need.

The Chair (Mr. Peter Tabuns): Further debate? Ms. Damerla.

Ms. Dipika Damerla: So would this mean that they would be in the care of the crown plus get Ontario Works? Is that the intent?

The Chair (Mr. Peter Tabuns): Go ahead, Miss Taylor.

Miss Monique Taylor: First of all, it's not the crown. They would not be crown wards. Say they're in a group setting, in a group home, where they would still need to have their toiletries and their personal clothing and all of those things that they would need to be able to purchase for themselves but would not be able to do so without having the financial assistance to do so.

The Chair (Mr. Peter Tabuns): Okay. I have Ms. Mangat.

Mrs. Amrit Mangat: Thank you, Chair. As I said earlier, I support the intent of the bill, but I have a problem with the language of the bill. This amendment will also currently create systemic challenges in the welfare system, so I cannot support this in its current form.

The Chair (Mr. Peter Tabuns): Thank you, Ms. Mangat.

Is there any further debate on this amendment? Is there any further debate? Okay. There being none, all those in favour, please raise your hands. All those opposed? They're abstaining; okay. The amendment carries.

Shall section 2, as amended, carry? Carried.

We go to section 3. Ms. Mangat, you have an amendment?

Mrs. Amrit Mangat: Thank you, Chair.

I move that section 3 of the bill be struck out and the following substituted:

"Commencement

"3. This act comes into force on a day to be amended by proclamation of the Lieutenant Governor."

The Chair (Mr. Peter Tabuns): Thank you, Ms. Mangat.

Any debate? Mr. Jackson.

Mr. Rod Jackson: I'm not sure exactly what the reasoning is for this. Maybe I can ask for a little bit of clarification from legislative counsel on this. In my mind, this means that, essentially, the proclamation day would be indefinite. Is that correct?

Ms. Julia Hood: Currently, the commencement provision states that the act will come into force six months after the day it receives royal assent. The proposed amendment would change that to be on a day to be proclaimed, which is a day to be determined.

Mr. Rod Jackson: Okay. Thank you for that clarification; that's what I thought it might be.

Essentially, this guarantees non-passage of the bill, if you ask me. I'm a little bit stunned that this comes forward like this. If there is some concern that maybe there's not enough time to implement this bill with six months, I'm happy to make a friendly amendment to this, maybe to increase the time from six to maybe nine months. But to leave it indefinite, I think, is dangerous. I'm going to bite my tongue a little bit on this because I don't know exactly why it's being done. Hopefully, you will accept my suggestion for a friendly amendment there on that, but I can't accept an indefinite timeline.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Jackson.

Ms. Mangat and then Mr. Fraser.

Mrs. Amrit Mangat: Chair, first of all, I would like to correct my record. I said, "This act comes into force on a day to be amended," but instead of "amended," it has to be: "This act comes into force on a day to be named by proclamation of the Lieutenant Governor."

The Chair (Mr. Peter Tabuns): Yes.

Mrs. Amrit Mangat: And I would like to speak.

The Chair (Mr. Peter Tabuns): Speak.

Mrs. Amrit Mangat: Chair, I strongly believe that children are our treasure; they are our future. Some people say that they are leaders of tomorrow, but I believe they are not only leaders of tomorrow, but they are also leaders of today. The action they take about themselves, or the government takes about them, has serious consequences and impacts on them.

Chair, we heard from the stakeholders last week on December 4. There were stakeholders who were in favour of the bill and there were stakeholders who strongly opposed the bill. One of the stakeholders, children's aid society, who was in favour of the bill, said the bill will have significant financial implications as it would increase CAS service volumes, require additional staffing to provide these services and create additional funding pressures. The cost of the bill would be approximately $50 million annually, and our economy has not yet recovered. It's growing, but it is growing at a slow rate

We announced in our budget 2013 that our government will spend 1% less than the growth in the GDP. As I said earlier, I fully support the intent of the bill, but we cannot accept it in its current form. This amendment is very critical so that we can study the concerns raised by those stakeholders and anything we want to do, we can do it on a firm footing.

The Chair (Mr. Peter Tabuns): Thank you, Mrs. Mangat. Mr. Fraser?

Mr. John Fraser: I'll hold for now.

The Chair (Mr. Peter Tabuns): Mr. Jackson.

Mr. Rod Jackson: I guess, Chair, it's clear that there's no will to change this with my suggestion for a friendly amendment, so I will be voting against this. I find it offensive that essentially this bill is being stalled out. Keep in mind, private members' bills cannot be money bills and keep in mind that there is a strong economic argument for this bill, that it actually spends less of the government's money, less of the taxpayers' money than the current system does.

There is no economic argument to be made here. This is not a money bill. They cannot, by definition, be a money bill. I will not accept this and I will strongly vote against it. I'd like to call the question.

The Chair (Mr. Peter Tabuns): First of all, we've just started debate on this, so I'm not going to go to the question. I appreciate your strong commentary on this. Miss Taylor.

Miss Monique Taylor: By my records from when we were doing submissions, I had 11 groups for, three against. I do not recall any forms of actual costs being brought to our attention through those submissions. I have the forms from the children's aid societies in front of me. Nothing in their submission says anything about financial costs or what it would be. I'm actually quite shocked by this amendment also. I will definitely be voting against this amendment.

The Chair (Mr. Peter Tabuns): Thank you, Miss Taylor. Mrs. Mangat?

Mrs. Amrit Mangat: There may be three stakeholders, but they raised concerns, and the concerns they raised were very serious. We need time to study those concerns. This amendment is very important.

The Chair (Mr. Peter Tabuns): Thank you, Mrs. Mangat. Are there any other speakers? Are you ready to vote?

All those in favour of this amendment, please raise your hands.

All those opposed?

It's a tie. I have to put the casting vote, and tradition is that I maintain the bill in its current form, so I vote against.

The amendment fails.

Shall section 3, as amended, carry?

Interjection.

The Chair (Mr. Peter Tabuns): Oh, sorry. I appreciate the correction.

Shall section 3 carry? Carried.

Section 4: I'm not aware of any amendments. There are no surprises. Good.

Shall section 4 carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 88, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Carried.

And that concludes our business. Mr. Fraser?

Mr. John Fraser: I'd like to move that the Standing Committee on Regulations and Private Bills continue its clause-by-clause consideration of Bill 6 on February 19, 2014, and February 26, 2014.

The Chair (Mr. Peter Tabuns): We can entertain the motion. We'll circulate it, but the bill has passed this committee and will be reported out to the House.

Interjection.

The Chair (Mr. Peter Tabuns): We've had a motion put by Mr. Fraser for continuation of the debate of Bill 6. Is there any discussion? Mr. Jackson?

Mr. Rod Jackson: I would like a little bit more time to discuss this, if we could call for a recess. Twenty minutes?

The Chair (Mr. Peter Tabuns): A 10-minute recess? We're recessed for 10 minutes.

The committee recessed from 1001 to 1011.

The Chair (Mr. Peter Tabuns): The meeting resumes. Mr. Fraser, you have a motion?

Mr. John Fraser: Yes. I just think we need to get back to Bill 6, government business. It's an important bill. It was before this committee, and I'd encourage us to just get back to work on that. It's time to fish or cut bait on Bill 6.

The Chair (Mr. Peter Tabuns): Okay. I've got Miss Taylor and Mr. Walker. Miss Taylor?

Miss Monique Taylor: Thank you, Chair. I have an amendment to this motion, please.

The Chair (Mr. Peter Tabuns): Okay.

Miss Monique Taylor: I would like to have Bill 132, which is the Energy Consumer Protection Amendment Act—to resume hearings from March 5 to March 19.

Mr. John Fraser: What number was that?

Miss Monique Taylor: Bill 132, the Energy Consumer Protection Amendment Act (Elimination of Fixed Rate Electricity Contracts).

The Chair (Mr. Peter Tabuns): Mr. Walker.

Mr. Bill Walker: Mr. Chair, I would ask for a 20-minute recess so that I can consult my caucus and other members can consult their caucuses on this.

Ms. Dipika Damerla: That would take us to 10:30.

The Chair (Mr. Peter Tabuns): Yes.

Mr. Bill Walker: Well, it has been sprung on us. I need to make sure my caucus is aware of what we're trying to do and have a chat with them.

Ms. Dipika Damerla: We're fine with that.

Mr. John Fraser: Yes, that's fine.

The Chair (Mr. Peter Tabuns): If we have a 20-minute recess, we're in question period.

Mr. John Fraser: Yes, so—

The Chair (Mr. Peter Tabuns): Okay. So you've just asked for a 20-minute recess?

Mr. Bill Walker: Please, Mr. Chair.

The Chair (Mr. Peter Tabuns): Recess granted.

The committee adjourned at 1013.

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ISSN 1180-4319

Legislative Assembly
of Ontario

Second Session, 40th Parliament

Official Report of Debates (Hansard)

Wednesday 19 February 2014

Standing Committee on Regulations and Private Bills

Assemblée législative
de l'Ontario

Deuxième session, 40e législature

Journal des débats (Hansard)

Mercredi 19 février 2014

Comité permanent des règlements et des projets de loi d'intérêt privé

Chair: Peter Tabuns
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Room 500, West Wing, Legislative Building
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Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario

Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 19 February 2014

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Mercredi 19 février 2014

The committee met at 0901 in committee room 1.

COMMITTEE BUSINESS

The Chair (Mr. Peter Tabuns): The Standing Committee on Regulations and Private Bills will now come to order. At the last meeting, on December 11, 2013, Mr. Fraser moved "that the Standing Committee on Regulations and Private Bills continue its clause-by-clause consideration of Bill 6 on February 19, 2014, and February 26, 2014." Then Miss Taylor moved an amendment to the motion to add that the committee conduct public hearings on Bill 132, the Energy Consumer Protection Amendment Act, on March 5, 2014, to March 19, 2014.

At the end of the meeting, the committee was in recess before taking a vote. The committee will now resume to vote on Miss Taylor's amendment on the motion.

All those in favour? All those opposed? The amendment fails.

We are now considering the main motion. Any discussion? Ms. Wong.

Ms. Soo Wong: Mr. Chair, I have an amendment to the main motion, so I've got a copy for the committee.

The Chair (Mr. Peter Tabuns): If you would like to read your amendment first.

Ms. Soo Wong: Mr. Chair, can I read my—

Mr. Michael Harris: No—

Ms. Soo Wong: Okay. Yours, okay.

Interjections.

The Chair (Mr. Peter Tabuns): Mr. Harris.

Mr. Michael Harris: I'd like to propose an amendment.

I move that the words following "Private Bills" be deleted and substituted:

"authorizes the Clerk, in consultation with the Chair, to arrange the following with regard to Bill 69, An Act respecting payments made under contracts and subcontracts in the construction industry, 2013:

"(1) One day of public hearings on February 26, 2014, and two days of clause-by-clause consideration on March 5 and March 19, 2014;

"(2) Advertisement on the Ontario parliamentary channel, the committee's website and the Canadian NewsWire;

"(3) Witnesses to be scheduled on a first-come, first-served basis;

"(4) Each witness will receive up to five minutes for their presentation, followed by nine minutes for questions from committee members;

"(5) The deadline for written submissions is 3 p.m. on the day following public hearings;

"(6) That the research officer provide a summary of the presentations by 5 p.m. on the second day following public hearings;

"(7) The deadline for filing amendments with the Clerk of the Committee be 11 a.m. on the day of clause-by-clause consideration of the bill;

"And that the committee continues its clause-by-clause consideration of Bill 6 on March 26, 2014."

The Chair (Mr. Peter Tabuns): Do you want to speak to that?

Mr. Michael Harris: Yes. You know, it is obvious that Bill 69 has been in the Legislature for some time. There's a strong willingness from plenty of stakeholders across the province to move this bill forward. It's an important piece of legislation ensuring that suppliers and contractors get paid. A lot of other jurisdictions in North America already have this legislation, and it's time that it move forward in the Ontario Legislature. That's why we're proposing public hearings on the dates that we've mentioned in this amendment to the main motion, where we can then resume Bill 6 following on March 26 going forward. I think it's pretty self-explanatory in terms of what we'd like to see. We encourage the government to vote in favour of this amendment so that we can move this important piece of legislation, Bill 69, forward.

The Chair (Mr. Peter Tabuns): Okay. I have Ms. Wong who would like to address this.

Ms. Soo Wong: Thank you, Mr. Chair. With respect to Mr. Harris's motion, what I'm hearing, if I'm correct, is that he's asking us to deal with Bill 69 before we finish Bill 6. Now, I don't know about other committee members, but we've already started the process with Bill 6, and it is pretty disrespectful, with all the work we have done to date, that we are now going to another bill. Meanwhile, unless I'm wrong, Mr. Chair, we've already started clause-by-clause, and you're going to freeze what we have done and go directly to Bill 69. Is that fair for those who have been waiting to see this bill through? I challenge you not.

So, with due respect, Mr. Chair, I will be voting against this motion by Mr. Harris because it is not appro-

priate, and furthermore, it is disrespectful because the community out there is expecting us to go forward with clause-by-clause and finish that section of Bill 6. And now you're saying to freeze what we just did and go directly to Bill 69.

So my motion, Mr. Chair, is to keep us finishing Bill 6, and then go to Bill 69 after we've completed Bill 6.

The Chair (Mr. Peter Tabuns): Any further comment on your amendment, Mr. Harris?

Mr. Michael Harris: Yes. I would just like to respond to that. In essence, voting against this amendment would be voting against one of your own members who brought this important piece of legislation forward. I want to highlight the fact that Bill 6, a government bill, shouldn't have been sent to this committee in the first place. So to say that this is disrespectful I think is—you know what? It's unfortunate that you use that language.

This committee is meant for regulations and private bills, which Bill 69 is. It is an extremely important piece of legislation. I don't need to tell you the amount of contractors that are writing me, sending me letters and begging for this legislation to come forward. So in essence, if you're voting down this amendment, that means that you're against this piece of important legislation brought forward by one of your own members.

I'm suggesting that we simply move quickly to Bill 69, get the hearings done, move it out of committee and back to the Legislature, where this important piece of legislation can be given royal assent so that those folks in Ontario have that important prompt-payment legislation. We've just started on Bill 6. We've only had an hour and a half of clause-by-clause. Again, I remind you that that bill likely should not have even come to this committee in the first place.

The Chair (Mr. Peter Tabuns): Okay. I have Mr. Fraser on my speakers list.

Mr. John Fraser: Thank you very much, Mr. Chair. I'd like to remind the member opposite that 80 minutes of that hour and a half were 20-minute recesses. So we've started the process of clause-by-clause on Bill 6. It's been dragging along. It is an equally important bill. It's about protection of the Great Lakes—80% of our drinking water and 95% of our agricultural land lies around the Great Lakes.

We have a motion in front of us here that my colleague is putting forward that will allow us to move forward on Bill 6, get it done and get to Bill 69, which is an equally important piece of legislation. But let's finish the work that we've started, stop the delays and get on with it.

The Chair (Mr. Peter Tabuns): Okay. I have Ms. Wong.

Ms. Soo Wong: Mr. Chair, I just want to be on record to reiterate what Mr. Harris is talking about. We have letters from municipalities—including your municipality, Mr. Harris—supporting Bill 6. I'd like you to go back to your city council to say to them why we're doing delay to pass your motion. We have municipalities across the province that are supportive of Bill 6. It's our responsibility, not just, "Which committee? Is this the right committee?" I don't really care. I don't think the public really cares. The fact is that we have already spent 90 minutes of public time to address this very important bill—the legacy of Ontario, but more importantly, to protect every Ontarian's public water. So to say that we put it in the wrong committee—I don't really care. I don't think the public cares. The fact that we have used public time, and you're telling me that we're going to suspend what we're doing with Bill 6 to go to your Bill 69—I don't think that's fair for the committee members who have spent a lot of time on this particular matter. Thanks, Mr. Chair.

0910

Mr. Michael Harris: I need to respond, obviously.

The Chair (Mr. Peter Tabuns): Yes, you may respond.

Mr. Michael Harris: Bill 69 isn't my private member's bill. In fact, it's one of your own members'—Steven Del Duca's—private member's bills, prompt payment legislation, Bill 69.

Listen, the government has had 10 years to address protecting our Great Lakes, and you've done nothing. A decade later, talking about protecting the Great Lakes, is a bit too late. It's a bit rich, perhaps.

Again, we've put a clear amendment to the main motion on the table to get to Bill 69 quickly. There's clearly disagreement and some concerns with Bill 6. I find it puzzling, in fact, that you as the government would have tabled so many amendments to your own piece of legislation. It's the reason why we're going to take longer than we actually need to in this committee. I think that shows itself that this piece of legislation needs major work.

How many amendments do we have in total, Clerk, if you don't mind? How many total amendments were tabled?

The Clerk of the Committee (Ms. Valerie Quioc Lim): About 90-plus.

Mr. Michael Harris: Ninety-plus amendments. Can you tell me how many of those were by the government?

The Clerk of the Committee (Ms. Valerie Quioc Lim): I'll have to check again to see.

Mr. Michael Harris: I'd say that it was a substantial amount of amendments, which basically says that this government has got some major concerns with its own legislation and that they rushed to get it here in the first place. So we're going to need a lot more time. Clearly, that was the case the last time we went through this. We need this committee process to go through and make sure that the bill that was presented is thoroughly debated and changed and modified in the manner in which we see fit. I think we've proposed a lot of good, substantial amendments to Bill 6, but it is important that we get Bill 69 in and out of committee. I mean, the contractors that are simply going out of business because of their receivables in Ontario is significant, and I can assure you, with this tight timeline of the amendment that I've put forward, that contractors in your community will be well served

by you voting in favour of this amendment to get Bill 69 in and out quickly.

The Chair (Mr. Peter Tabuns): Mr. Fraser has the floor. I'd suggest that most of the arguments that need to be made have been made, but Mr. Fraser, if you want to, proceed.

Mr. John Fraser: Okay. I respect the member across. I don't think really think he wants to get Bill 6 through committee; otherwise, we wouldn't have had four 20-minute recesses. Your own community is telling you that they want it. We have an ability to get both of these things done here. Half of the amendments are yours. I'm sure that once the Clerk counts it up, 50 of them are yours. The rest are divided between us and the third party. I'd just like to remind him of that. There's an ability for us to get all of these things done if we just move on it.

The Chair (Mr. Peter Tabuns): Okay. Mr. Walker.

Mr. Bill Walker: Just some clarification, Ms. Wong: If you could tell us why you're preventing Bill 69 from going through. Your member introduced this. We are getting a number of people calling us saying, "Why isn't this legislation"—which truly should be at this committee—"through?" So can you please tell us in detail why you would prevent this bill from moving forward? All we're suggesting is that you have a number of amendments to your own Bill 6, which, to my colleague's reference, you've obviously rushed us to get here. You want amendments to your own legislation. If you had done the proper planning, it would have been done and full-scale finished. So why can we not do Bill 69 and defer Bill 6, which is not going to get done in one session anyway, with all the amendments that you've proposed, along with the concerns that we're sharing on behalf of our constituents? So please articulate to me why you would hold up your own member's bill, which could be doing some good for contractors and creating jobs that people are crying about every day of the week, and which you, supposedly, as a party, are willing to support.

The Chair (Mr. Peter Tabuns): Ms. Wong.

Ms. Soo Wong: Mr. Chair, through you to the member opposite: Let's not forget what the opposition party cost Walkerton. I clearly remember, as a former public health official in York region, the tragedy of Walkerton. This particular bill is protecting drinking water across Ontario. We have already started the process. I'm not saying that we're not going to go through Bill 69, Mr. Chair, but I'm very clear that at the end of the day, we've already started the process dealing with Bill 6 and are doing clause-by-clause. Bill 69 is a private member's bill. Government bills do have priority, and the fact is that Bill 6 is protecting every Ontarian in terms of water, in terms of workplaces, in terms of play. It's critically important that we pass this particular piece of legislation, but more importantly, get through the process. If we hadn't started this process, yes, I would consider entertaining Bill 69. But the process has already begun for Bill 6. I challenge anybody in this committee—we've already spent 90 minutes of public time to deal with clause-by-clause—to say that it hasn't been a priority. That's not true.

Bill 69 is a private member's bill, and I want to remind the member opposite.

Mr. Peter Tabuns: Mr. Walker.

Mr. Bill Walker: Thank you, Mr. Speaker. Through you back to Ms. Wong: I find it a little bit offensive that you would bring up the Walkerton water tragedy again and try to compare it to this. This piece of legislation has a lot of tentacles to it. A lot of other groups are going to have to be consulted. There is a joint international committee that's also looking at it. So even with this piece of legislation, again, with the number of amendments that you've proposed to your own legislation, it's going to take some time. I would hope that you would expect all of us to do our due diligence to ensure we're putting a good piece of legislation forward rather than rushing it through for some partisan concern that you may be trying to move.

I have great concern that you're actually suggesting this, and yet you're holding up another whole group of people. You keep suggesting that we're holding up something. What about Bill 69 and the ability for that legislation that should be here and should have already been through? All we're saying is, let's just reshuffle the deck. Let's get 69, which has already come through, let's finish it off, get it back to the Legislature to get royal assent and actually become law, and then we'll come back to Bill 6 and review it with the care and caution that we should all be taking when it is something as important as our Great Lakes.

The Chair (Mr. Peter Tabuns): Mr. Fraser.

Mr. John Fraser: I'd like to remind the member across that you requested four 20-minute recesses in going through the clause-by-clause—not necessary, okay? That's what is delaying getting our work done here at the committee. There's an ability, through my colleague's motion, to get both of these pieces of legislation done in an expeditious manner. I would request that the member consider supporting that motion.

The Chair (Mr. Peter Tabuns): I have Mr. Walker.

Mr. Bill Walker: I would respectfully, Mr. Chair, through you to Mr. Fraser, suggest that we respect what you're saying. However, I would trust you would expect us to do our due diligence on behalf of our constituents and taxpayers, so if we need to take a 20-minute recess to review the facts and ensure what we're going to agree to rather than rushing something through because you have an expedited reason to move it—it's disingenuous. We will always stand on behalf of taxpayers, our constituents, and their concerns and do our due diligence. We should be putting good, proper and well-thought-out legislation through this place rather than rushing it through and then having to come back and amend and spend innocuous amounts of time doing that. So I actually take a little bit of offence that you suggest that we don't have the right to ask for a recess to do our due diligence.

In my case, such as you, we're new members of Parliament. A lot of this is brand new to me. I want to read

it. The document is fairly significant. The number of amendments that you've proposed, I need to think through to make sure I understand what you're doing. So I will always take the opportunity to ask for a recess to ensure that I'm doing my due diligence on behalf of my constituents.

The Chair (Mr. Peter Tabuns): Mr. Harris?

Mr. Michael Harris: Just for the committee's sake, for the members opposite, I think it might be important to note that actually Bill 69 was referred to committee on May 16, whereas Bill 6 was referred to committee on October 9. That important piece of information shows that in fact Bill 69 had been referred to committee back in May, Bill 6 in October. Obviously, Bill 69, prompt payments, has been an issue since your government had a majority and failed to move on this important piece of legislation. We now, in a minority Parliament, as opposition members, feel that it's about time Bill 69 comes through.

Again, May 16 for Bill 69, October 9 for Bill 6: It's been in committee a lot longer. Let's get it out, get it back to the Legislature, and then move on with Bill 6.

The Chair (Mr. Peter Tabuns): Okay. Ready for the vote?

Mr. John Fraser: I'd like to have a five-minute recess.

The Chair (Mr. Peter Tabuns): With the permission of the committee. Everyone is agreeable to—

Interjection.

The Chair (Mr. Peter Tabuns): I hadn't called the vote. You want a five-minute recess?

Mr. John Fraser: Five minutes.

The Chair (Mr. Peter Tabuns): And everyone's agreeable? Five minutes.

The committee recessed from 0919 to 0925.

The Chair (Mr. Peter Tabuns): Mr. Walker.

Mr. Bill Walker: Thank you, Mr. Chair. Just through you, I just wanted to put on the record that we've also been in contact with or been contacted by the Nature Conservancy of Canada and Ontario Headwaters Institute, who also have expressed a number of concerns with Bill 6 and who do not want the government to rush this through. They want to see that this is done in a diligent manner, that we actually have good thought and we've thought this through long and hard before we do it. Their concern is that it's being rushed through. I just want that to be on the record.

I want all of my respected colleagues to ensure that that's exactly what we are trying to do, to ensure that this is a good piece of legislation. There's no one in our caucus not wanting to protect the Great Lakes. Most of my riding is surrounded by the Great Lakes, so it's obviously very critical to all people of Ontario, specifically those in my backyard. So we will be doing this with the greatest of intent. We want to see good legislation passed, but we're not going to rush it, and we're certainly not going to usurp.

I think my colleague Mr. Harris brings up a good idea. My colleague Ms. Wong earlier said that we're not being fair by not getting this piece of legislation, but how fair is it for a piece of legislation that was introduced in May to be superseded by a piece of legislation in October? Those people from May too are waiting and expect a timely resolve to their concerns and issues that are in fact impacting their business on a day-to-day basis.

I would respectfully, again, suggest that we follow my colleague's amendment, that we do Bill 69, we move that, we get it back to the Legislature for a vote and royal assent, and then we resume Bill 6, which allows us the time to consult and ensure that we're putting our best foot forward. Thank you, Mr. Chair.

The Chair (Mr. Peter Tabuns): Thank you. Mr. McNeely.

Mr. Phil McNeely: Mr. Chair, I'd just like to comment that there has been extensive consultation on this bill. There are a lot of amendments which are great amendments, with ideas from all three parties, so this is not rushing it through. It's ready to be looked at clause by clause, and I would just like to call the vote on the motion.

The Chair (Mr. Peter Tabuns): Mr. Walker, I've had a request by Mr. McNeely that we proceed to a vote on this. I've heard, I think, from a variety of people a variety of times saying effectively the same thing. I think we've heard the arguments and—

Interjection.

The Chair (Mr. Peter Tabuns): I gather I'm being given a suggestion that I give you one more shot at this, so why don't you give it a shot?

Mr. Bill Walker: Well, just again, I think I need some clarity from my colleagues across why they will not allow Bill 69 to be finalized, to be finished and get it back, particularly when it's one of their colleagues' bills, and then we resume Bill 6. I just don't understand. You're telling me you're not rushing it, but why can we not allow the people who had theirs on the floor in May to have their resolve, on your member's behalf, and then we come back to Bill 6? No one's wanting to not do Bill 6. All we're saying is, there's a bill here that you're holding up. It's people's livelihoods at stake today. The Great Lakes Protection Act is not going to get done tomorrow. It's not going to have the same impact as the prompt payment can, an immediate impact on people's livelihoods, on people who are requiring a paycheque and their livelihood.

I still find it a little bit strange that you will not give me a straight answer as to why you will not consider what I believe is a good, common sense amendment to allow your member's bill to get to the Legislature, to honour those people who, in May—they've been waiting since May of last year. It's almost a year that it's been there. This one just started in October. We have almost 100 amendments that we're going to have to—so it's not going to happen tomorrow anyway, but we can get Bill 69 through, I believe, if we make it the priority, and get that piece of legislation finalized and show true concern for those who have raised it and your colleague.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Walker. I see no further hands. I call the vote.

Mr. Bill Walker: May I request a 20-minute recess?

The Chair (Mr. Peter Tabuns): I've called a vote. You've requested a 20-minute recess. I grant the 20-minute recess.

The committee recessed from 0930 to 0950.

The Chair (Mr. Peter Tabuns): Members, back to order. We are voting. The motion before us is the amendment put by Mr. Michael Harris. All those in favour of Mr. Harris's motion? All those opposed? The motion loses.

Ms. Wong?

Ms. Soo Wong: Mr. Chair, after consulting with the Clerk—

Interjection.

The Chair (Mr. Peter Tabuns): I'm sorry, Mr. Harris. I had understood that her hand was up.

Ms. Soo Wong: After consulting with the Clerk, I made some minor amendments to the motion that I put forth. I have copies of it here. I just want to make sure that I read it on the record.

I move that Mr. Fraser's motion from December 11, 2013, be amended by striking out "February 26, 2014" and replacing it with the following:

"upon reference of Bill 6, Great Lakes Protection Act, 2013, upon reporting of the bill to the House, the Clerk, in consultation with the Chair, be authorized to arrange the following with regard to Bill 69, Prompt Payment Act, 2013:

"(1) Two days of public hearings and two days of clause-by-clause consideration, commencing on the first sessional day after Bill 6, Great Lakes Protection Act, has completed clause-by-clause consideration, during its regularly scheduled meeting times;

"(2) Advertisement on the Ontario parliamentary channel, the committee's website and the Canadian Newswire;

"(3) Witnesses be scheduled on a first-come, first-served basis;

"(4) Each witness will receive up to four minutes for their presentation, followed by six minutes for questions from committee members;

"(5) The deadline for written submission is 3 p.m. on the day of public hearings;

"(6) That the research office provide a summary of the presentations by 5 p.m. on Friday of the same week following public hearings;

"(7) The deadline for filing amendments with the Clerk of the committee be 12 noon, two days following the second day of public hearings."

That's it, Mr. Chair. Thank you.

The Chair (Mr. Peter Tabuns): Thank you, Ms. Wong. Do you have any remarks? None? All right.

Mr. Bill Walker: Will we be receiving a copy of that, Mr. Chair?

The Chair (Mr. Peter Tabuns): They have been circulated.

Mr. Bill Walker: I thought she said she made amendments to it.

Ms. Soo Wong: No, I was corrected.

Mr. Bill Walker: You didn't make amendments to the amendments that you thought you made?

Ms. Soo Wong: I just put the words "upon reporting of the bill." That's all I put to what you have in front of you, because the Clerk said to me to clarify that piece. That's what I said, not about "to the House for third reading." I just put that once this bill is done clause-by-clause and goes to the chamber, whether there is third reading or not, that we finish the clause-by-clause. That's all I asked; okay?

The Chair (Mr. Peter Tabuns): Mr. Walker?

Mr. Bill Walker: So just a point of clarification, because I'm still—we're trying to protect, obviously, those people in our constituencies who are asking for prompt-payment legislation to be enacted, again reminding my colleagues across that it's your member's bill that was brought to this House in May. This is October.

You used the word in your very first opening reference, Ms. Wong, to "fairness," and those people who are being delayed. So I'm still struggling with why you would continue to bring this forward and not be willing to allow us to move Bill 69—your piece of legislation—through first. Why such a rush? I don't believe Bill 6 is going to be able to be rushed through, so why would we not get Bill 69 out, done, and those people can move forward?

The Chair (Mr. Peter Tabuns): Ms. Wong, if you want to reply to that, and then I will have Mr. Fraser.

Ms. Soo Wong: Just a quick comment, Mr. Chair, through you to the member opposite. It is very clear that what I am observing for the first time in this committee is that there's no intent by the opposition party to pass Bill 6. Let's be on record with that piece.

We have always supported our colleague, Mr. Del Duca, on Bill 69.

There was an earlier question, Mr. Chair, by the opposition asking about how many amendments the government made. We know that on the record the PC motions were 63, the government motions were 27, and the NDP had 14 motions. Regardless of what it looked like, what I'm seeing right now here is there are more motions made by the opposition on this particular Bill 6. So I want to be very clear: We do support Bill 69 but we already started the process—the gate had already gone out—with regard to Bill 6. In fairness, and the fact that it's the committee's time—90 minutes have been spent, or is it 80 minutes? Whatever it is. But we want to finish this bill. The sooner we don't delay the clause-by-clause, we can go to Bill 69. That's all I ask.

The Chair (Mr. Peter Tabuns): Okay, I've got Mr. Fraser and then Mr. Walker.

Mr. John Fraser: Thank you very much, Mr. Chair. There is no rush on the other side to get Bill 6 done. That's very clear. Number five, 20-minute recess—I respect the fact that they need to study their own amendment again before we go to a vote.

The reality is, we can get both of these pieces of legislation done. We can get that. The members opposite have proposed more than half of the amendments to Bill

6, and we should be getting to those. I fully support Bill 69 and my colleague. I believe, and I am restating myself, that this motion will allow us to get both of these pieces of legislation done, as long as we don't have a 20-minute recess every time we talk about an amendment.

The Chair (Mr. Peter Tabuns): Mr. Walker.

Mr. Bill Walker: Thank you, Mr. Chair. Again, some points of clarification: Ms. Wong, you're presupposing. You've already made your mind up that we don't want this to pass. We obviously, in your numbers, are putting forward over 50% of the amendments, which obviously tells me that my constituents have very significant concerns about this piece of legislation.

I would remind you, every day of the week when I'm in my riding, I hear things about a piece of legislation that your government introduced, being the Green Energy Act, that you rammed through the House. You took away the democratic rights of our municipalities.

So, with all due respect, we're going to be very cautious with any piece of legislation you put in front of us from here on in. On behalf of our constituents, we will take the due time and consideration to ensure that we know exactly what effect the legislation is going to have, because I don't believe some of the concerns have been addressed with regard to the long-term impacts of this legislation. So what I'm actually suggesting: You're saying that we do not wish to pass it. You're actually taking the exact opposite, trying to railroad and ram it through as quickly as possible without due diligence.

I would remind you again: A group such as the Nature Conservancy of Canada has major issues, concerns with the way the legislation is currently worded. So we will continue, as we should be in opposition, doing our due diligence to ensure that the legislation is properly reviewed. If I need to take 20-minute recesses with my colleagues to consult and ensure that what we do is put our best foot forward on behalf of all of the taxpayers of Ontario, not special-interest groups, then I will continue to do that. I trust my colleagues will do that as well.

I still do not understand, when you have your own piece of legislation, why you will not agree and do Bill 69 and get it out of the way, and then we'll return to Bill 6. No one is suggesting that we're not going to do Bill 6. We're just suggesting that there are a lot of taxpayers and businessmen out there, and many of your constituents, who want the prompt payment action. Mr. Del Duca introduced it, I trust, wanting to get it through as quickly as possible. So why are we delaying that piece? Why can we not accept the amendment, do it first, and then return to Bill 6?

The Chair (Mr. Peter Tabuns): Mr. Fraser.

Mr. John Fraser: Thank you very much, Mr. Chair. We don't need any lessons from the members opposite about downloading on municipalities and enforcing amalgamations.

I would like to say that I believe the member's municipality supports Bill 6. Mr. Harris's Kitchener supports Bill 6—the municipality. So they're all in support of that.

I don't know if farmers are what I would call a stakeholder interest group. The people who are interested in Bill 6 are average, everyday people, people who rely on the Great Lakes for clean water, for agriculture. It's an important bill.

I would also like to remind you that you put forward 63 amendments. I respect your right to have a 20-minute recess, but not for your own amendments. Maybe with our amendments, if they're new to you, but they're your amendments. So you have the right to do that. That is very clearly a tactic to delay. We know that; it happens.

I would strongly suggest, again, that we can get both of these pieces of legislation done, which are important to a lot of people, if we just get down to business. Thank you.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Fraser. Mr. Harris.

Mr. Michael Harris: Yes, just a comment. In my Ontario, farmers are everyday folks, at least in my neck of the woods.

But I've got a subamendment that I'd like to move with regard to this amendment. Can I go ahead and read that out now?

The Chair (Mr. Peter Tabuns): Read it out, and then we'll have to circulate it.

Mr. Michael Harris: All right. I move that "upon reference of Bill 6, Great Lakes Protection Act, 2013, upon reporting ... to the House, the Clerk, in consultation with the Chair, be authorized to arrange the following with regard to Bill 69, Prompt Payment Act, 2013:

"(1) Two days of public hearings and two days of clause-by-clause consideration, commencing on the first sessional day after Bill 6, Great Lakes Protection Act, has completed clause-by-clause consideration, during its regularly scheduled meeting times;" be removed and replaced with:

"for two additional regularly scheduled meeting days, at which point the Clerk, in consultation with the Chair, be authorized to arrange the following with regard to Bill 69, Prompt Payment Act, 2013:

"(1) Two days of public hearings and two days of clause-by-clause consideration."

Mr. John Fraser: Can we get a copy of that?

Mr. Michael Harris: Absolutely. Absolutely.

The Chair (Mr. Peter Tabuns): We'll recess for a few minutes to get copies, if you'll hand that over.

Mr. John Fraser: Five minutes.

The Chair (Mr. Peter Tabuns): Five minutes.

The committee recessed from 1001 to 1011.

The Chair (Mr. Peter Tabuns): Mr. Walker, you were next to speak.

Mr. Bill Walker: Thank you very much, Mr. Chair. Again, I direct back to my esteemed colleague Mr. Fraser. He made some comments, and I trust he didn't imply that we would be stalling this purposely, without regard to our constituents. We want to ensure that this is the best piece of legislation, considering that the Great Lakes is our greatest water resource for the entire country.

I would be remiss, though—I think I have to parallel and take a little bit of offence to the use of the word

"stalling" when they are very adept in their own right at wedge issues and spin. I will reference, if I can—he brought up municipalities, and I think that many of the municipalities that they have tried to wedge us on have had sober second thought and are now asking questions like, "How much is this going to cost my municipality if in fact it is rushed through and we don't really understand the ramifications, long term? Who is going to implement and enforce? Who's going to be responsible and carry the baggage for this piece of the act that people, again, who will be unelected, who will be appointed people, will be able to enact—legislation and regulation?" So there is a lot of sober second thought.

I draw a parallel, again, to the Green Energy Act. That is a piece of legislation where they stripped municipalities of their democratic right. They stripped the people, who actually pay the freight for this great province, of having their locally elected representatives have an ability to speak. They have spun the "clean, free and green" of the Green Energy Act to the general public, and yet the first thing we turn off is Niagara Falls and the capture of water, which is truly the freest, cleanest and greenest form of power. I wonder if the people of Ontario understand that with regard to the Green Energy Act, that's what this Liberal government has done.

Then they turn around and they call our nuclear operators, who are the second-least-expensive and cleanest, and tell them to shut down a unit so that they can put up what they consider more clean, free and green.

I would be remiss if I didn't suggest that our soaring hydro rates are causing businesses, with reckless abandon, to leave this province, and the jobs with them. Certainly, those homeowners who cannot afford their hydro bills in today's world—my phone lines, my emails and my website are jammed with people who are saying, "I have to"—

The Chair (Mr. Peter Tabuns): Mr. Walker, could you try and focus in on the amendment?

Mr. Bill Walker: Yes, I will. Thank you, Mr. Chair. I just wanted to finish that sentence. Those people at home in my riding are calling, almost in tears, saying, "I have to choose between food and/or my hydro rate."

This is a piece of legislation that, in our minds, could be very similar. It could cause great hardship to people if we don't understand the ramifications, hence the reason that there are over 100 amendments that need to be given due deliberation.

We just once again say that this needs to be thorough. It needs to be done in an expedited manner, and we're okay with that, but we need to give true and proper diligence and thought. All we're suggesting again is, as I believe my colleague has once again attempted to say, that Bill 69 can be done fairly expeditiously. Let's do it first, let's get it and appease one of your own.

I mean, I'm wondering what Mr. Del Duca is thinking right now, when all of you continue to not want to have this one put forth first, when it was introduced in May 2013, and you want to supersede it with this piece of legislation. What are the real reasons that you want to ram this through like the Green Energy Act? And I draw the parallel. That's why I was using that example, Mr. Chair. Thank you for allowing me that indulgence of providing that context. But we need to really take a sober second thought as we need to understand this legislation—what it will do, what the ramifications are to municipalities that at first blush support it, but have definitely called me and said, "We need to know more because we really didn't really look at this in fine-toothed detail, and we do have some concerns now."

We are going to continue to look at this in a very thoughtful and efficient manner, but we will do it at the pace at which we feel comfortable, so that we're not putting in bad legislation which we are now experiencing with something like the Green Energy Act.

The Chair (Mr. Peter Tabuns): I have Mr. Harris and Mr. Fraser.

Mr. Michael Harris: The amendment that I've put forward, I think, is balanced. It's meeting you halfway in terms of getting back to Bill 6, laying out clear timelines to deal with that and moving forward with Bill 69.

That's it. I'm ready to vote on it, if you guys are.

The Chair (Mr. Peter Tabuns): Okay. Mr. Fraser.

Mr. John Fraser: I apologize to my colleague across the way if he was in any way offended by what I had to say.

I would like to say that we support Mr. Harris's motion and look forward to going to a vote on this now.

The Chair (Mr. Peter Tabuns): Okay. It seems to be that people have spoken. All those in favour of the amendment to the amendment? Okay, I've got six. All those opposed? Abstentions? It is carried.

Now we go to the main motion—to the amendment by Ms. Wong, as amended by Mr. Harris. No debate. All those in favour? Opposed? Abstentions? Carried.

To the main motion, as amended: All those in favour? All those opposed? Abstentions? Carried.

It's done?

Mr. John Fraser: Can we start with clause-by-clause? I know we've got about five minutes left, but we can start working on it where we left off, which I think is motion 6.

The Chair (Mr. Peter Tabuns): I believe we can. Do you have your materials?

Interjection.

The Chair (Mr. Peter Tabuns): Ah. You know what, Mr. Fraser? No, we're going to have to get staff up here. Five minutes is too little time to convene. We can reconvene at our next meeting in a week.

Mr. John Fraser: Great.

The Chair (Mr. Peter Tabuns): We stand adjourned until next Wednesday morning at 9 a.m.

The committee adjourned at 1018.

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ISSN 1180-4319

Legislative Assembly of Ontario

Second Session, 40th Parliament

Assemblée législative de l'Ontario

Deuxième session, 40e législature

Official Report of Debates (Hansard)

Wednesday 26 February 2014

Journal des débats (Hansard)

Mercredi 26 février 2014

Standing Committee on Regulations and Private Bills

Comité permanent des règlements et des projets de loi d'intérêt privé

Great Lakes Protection Act, 2014

Loi de 2014 sur la protection des Grands Lacs

Chair: Peter Tabuns
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Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario

Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 26 February 2014

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Mercredi 26 février 2014

The committee met at 0901 in committee room 1.

GREAT LAKES PROTECTION ACT, 2014
LOI DE 2014 SUR LA PROTECTION DES GRANDS LACS

Consideration of the following bill:

Bill 6, An Act to protect and restore the Great Lakes-St. Lawrence River Basin / Projet de loi 6, Loi visant la protection et le rétablissement du bassin des Grands Lacs et du fleuve Saint-Laurent.

The Chair (Mr. Peter Tabuns): The Standing Committee on Regulations and Private Bills will now come to order. We are here to resume clause-by-clause consideration of Bill 6, An Act to protect and restore the Great Lakes-St. Lawrence River Basin.

We are on section 3 of the bill, government motion number 5 in your package. Does the government have anything to say on this? You're ready? Any other debate?

Interjection.

The Chair (Mr. Peter Tabuns): Sorry. Are you moving the motion, Ms. Damerla?

Ms. Dipika Damerla: I believe it's Phil, right? You're moving the motion?

Mr. Phil McNeely: I was just getting ready here. I thought we were starting at motion 6. Sorry.

I move that the definition of "public body" in subsection 3(1) of the bill be amended by adding "or" at the end of clause (b) and by striking out clause (c).

The explanation and rationale for that is that this motion would remove both "source protection authority" and "source protection committee" from the definition of public bodies. This recognizes that only public bodies with a core regulatory mandate can implement programs related to protection of the ecological health of the Great Lakes and ensures that those responsible for implementation will be involved in developing targets and initiatives under this act.

The Chair (Mr. Peter Tabuns): Thank you, Mr. McNeely. Any further debate? Mr. Harris.

Mr. Michael Harris: Yes. Well, this was an interesting amendment to see from the government. I think it's finally nice to see the government realize the failure of their overly bureaucratic source protection committees. I think that's a signal that that is why they want to remove that.

We obviously believe that protecting our water sources is critical to the long-term health of our communities, but these committees have been overly politicized and far too intrusive from the beginning. We've said from the get-go that municipalities are forced to really expand their resources to bring their bylaws into conformance with source protection plans that don't really reflect their local priorities. That's why I see this as yet another problem with the approach that you as the government have taken with this bill. I don't believe we can set up a system that allows other public bodies to dictate what local governments do.

I think my colleagues will attest that—you know, even after ROMA/Ontario Good Roads this week, I had the opportunity to meet with several officials or delegations from the riding of Huron–Bruce, and this was a concern that was brought forward from that delegation.

I'll go on to say that the Clean Water Act began to take away the voice of elected representatives and really empowered other groups to call the shots. That's what we're nervous about here. So it is good to see that you've removed that, but I think it shows the signal.

I'm not sure if some of my other colleagues have points to add on this, but we will—it's important to bring up the NDP in this one too. They've obviously chastised the OMB as being anti-democratic, but the OMB does serve as a legitimate function of a democratic country like ours, unlike these corporatist governance bodies like you see here. We believe in the right to appeal etc.

It's interesting to see, and I guess I'd like some further—I know you outlined, just high-level, why you've removed this, but I'm not sure if somebody from the government can explain exactly why they felt they needed to remove subsection (c) of this public body and why they removed source protection authority from the bill.

The Chair (Mr. Peter Tabuns): If you wish, Mr. McNeely.

Mr. Phil McNeely: I'd just like to call the question.

Mr. Michael Harris: Well, I've asked a question; I'd like an answer.

The Chair (Mr. Peter Tabuns): You've commented. Any further debate? All those in favour—

Mr. Michael Harris: Well, no. Chair, I've asked a government official—I'd like legal counsel for the government—

The Chair (Mr. Peter Tabuns): Mr. Harris, you asked Mr. McNeely; that was all he had to say.

Mr. Michael Harris: He didn't answer me; I called a question. So I'll ask legal counsel for the government to explain why a source protection authority was removed from the bill.

The Chair (Mr. Peter Tabuns): Could I have legal counsel come forward, please?

Mr. Phil McNeely: Chair, I think the PC member supported this motion. I just want the vote on it if they're supporting—

The Chair (Mr. Peter Tabuns): I understand that, Mr. McNeely, but in fact, Mr. Harris asked for a witness to come forward. We've only had one person say one thing on this clause. He has the right.

If you would come forward.

Mr. Phil McNeely: So my response, then, if I wish—

The Chair (Mr. Peter Tabuns): Well, you had ceded it. Legal counsel has been asked. Legal counsel will get to speak. You can speak after legal counsel, if you so wish.

If you would give your name for Hansard.

Mr. James Flagal: Sure. My name is James Flagal, Ministry of the Environment legal services branch. The question was: Why was source protection authority removed?

Mr. Michael Harris: Yes.

Mr. James Flagal: Actually, when you look into the Clean Water Act, section 4, subsection (2), you discover that conservation authorities are source protection authorities, and they exercise the powers and duties of a source protection authority. The difference is that under the Clean Water Act, a conservation authority has specific participating municipalities that sit around the board; that may be more than what you see under the Conservation Authorities Act. Anyhow, the answer is that the source protection authority, in most cases, is the conservation authority.

The Chair (Mr. Peter Tabuns): Mr. Walker. Mr. Flagal, before you go.

Mr. Bill Walker: Mr. Flagal, can I ask a further question—

The Chair (Mr. Peter Tabuns): Mr. Flagal, if you would please return?

Mr. Bill Walker: I appreciate that you've shared who sits around the table, but I think what we're trying to get to is—from day one with this bill, what we've been asking is: Why are we adding more layers of bureaucracy? If you can explain it to us, we can perhaps get our head around it and understand the rationale and support it. But until you really give us details of why you're cutting out one group or why they're not there and there could be potential duplication, we're struggling with it. With all due respect, you basically told us who the conservation gets to sit. But why did you cut it out? We believed from day one that the legislation is already in place to do a lot of what you're doing, and this is merely—again, with respect—a fair bit of window dressing to get a headline. What's the implication at the end of the day?

We're all going to want to protect the Great Lakes. It's our source of water. We're not fighting that; we're not challenging that. But we need to understand why we're appointing new bodies that are unelected and why we're cutting out certain groups that already have the responsibility to do a lot of what we believe you're suggesting. We can't get clarification from you of why you're removing them.

Mr. James Flagal: I think a lot in that is policy questions, which I can't answer as legal counsel. I can say this: When legislation is being developed, I assist the folks who are giving me policy direction to develop that particular legislation with the assistance of legislative counsel.

To try and answer your question, the way to understand a particular term like "public body" is to look and see when the term appears in a bill. I think stakeholders pointed out that the reason why they did not think it was appropriate to have source protection authority, as you pointed out—and I said that it's often a conservation authority—or source protection committee is because these bodies are not the kind of regulatory bodies you think of, like a municipality, a ministry or a conservation authority, which regulates. So when you look at the term "public body" throughout the references of the bill, as an example, public bodies are going to have potentially certain responsibilities under a geographically focused initiative.

0910

I think it was in response—there were submissions from stakeholders who said that they didn't feel that the authorities and the committees were the appropriate bodies or entities to be public bodies, and the direction was that that we should respond to that particular submission. So that's the best that I can do—

Mr. Bill Walker: Thank you. I appreciate that. Can you also share—because you've kind of helped me get my head to a different spot—if there's any concern that you would have that other pieces of legislation, such as the source water protection act, would then encumber this group? So that we're going to get into this thing where one group's saying you can't do this because it's going to overlap or impede or whatever word we want to use, so we move nowhere—that's, again, one of our concerns, that there's a lot of duplicate administration. We're going to get ourselves caught up, but one act supersedes, and we're never going to really get any due diligence done.

Mr. James Flagal: No, I don't think that—

Mr. Bill Walker: You don't—

Mr. James Flagal: I don't think that concern will arise, and I'll tell you why quickly. Again, "public body" comes up with, number one, which is the entity responsible for leading the development of a geographically focused initiative, and that is the document that goes to cabinet. You go to cabinet twice for that. With respect to the source protection committee and source protection authority, its mandate comes from the Clean Water Act.

Nothing in this act conflicts or takes away from that particular mandate.

The source water protection plans definitely have important information. If you go and look at them, for instance, one of the first sections in the source water protection plan assessment report is a watershed characterization, which, in any of these geographically focused initiatives, may be very important foundational information if you wanted to do a particular document looking at a particular area and dealing with a particular concern—let's say nutrient loading in the Grand River or something like this.

So the point is that the legislation builds upon those other initiatives that are around in other pieces of legislation, including, let's say, in the Clean Water Act. No, it doesn't take away from their particular mandates.

Mr. Bill Walker: And if you, as you've now explained to me, knew that, why would the government have put that in there in the first place, only to have to retract it at this stage? It's almost like there's a change of thought process that's happening. Can you share with me why and what initiated that thought process to change?

Mr. James Flagal: Sure. I think the intention why the clause was originally in there was because it was thought that a source protection authority or a source protection committee could be one of the bodies that's leading the exercise of a geographically focused initiative. Definitely, when you get to later in the bill and you see that a public body may have, for instance, the responsibility for a monitoring program, it doesn't make sense to say that a source protection committee should carry on a monitoring program. They're just a committee; how can they go—and the source protection authority may be able to. It's a conservation authority, and they often do monitor. So I think the thinking was just that.

Is that an initial thought? There was thinking that maybe one of the bodies—because you can have more than one public body leading a geographically focused initiative—collaborating on that initiative could be the source protection committees or authorities, but because of the response that was received by submissions from stakeholders, there was reflection on this, and they felt, "Okay, we're going to basically limit public bodies to these particular bodies," knowing that, again, the geographically focused initiative, being a very collaborative process, can involve many stakeholders, even though it's being led by a body, including consultation with the source—

Mr. Bill Walker: And in your consultation with these stakeholders, did they have any concern of you removing that?

Mr. James Flagal: I don't believe so. I believe this was in response. I didn't hear of any opposition myself, but I wasn't at all the stakeholder meetings.

Interjections.

Mr. James Flagal: No, we did not. We did not.

Mr. Bill Walker: Thank you.

The Chair (Mr. Peter Tabuns): Okay. Thank you, Mr. Flagal.

Now I have Mr. Schein.

Mr. Jonah Schein: Chair, I think we've got some answers here, and I'd like to call the question.

Mr. Bill Walker: Chair, I'm not prepared for this, because I need to kind of process that a little bit. So I would ask for a 20-minute recess to be able to consult before we move forward.

The Chair (Mr. Peter Tabuns): Well, that question has to be decided by the committee. Are people in favour of a 20-minute recess? All those in favour?

Ms. Dipika Damerla: Chair, I don't think we need 20 minutes; maybe 10. Twenty seems a bit much.

Mr. Bill Walker: Respecting the member, could I ask for a maximum of 20, and we can be back in—I mean, you're kind of stifling if we don't have ability to move forward.

Ms. Dipika Damerla: No.

Mr. Bill Walker: You wrote the stuff; you know it. I didn't, so I need some time to be able to consult with some of our experts to understand where we're at.

The Chair (Mr. Peter Tabuns): Mr. Walker, just to be clear, you have a right to ask for 20 minutes just before a vote—

Mr. Bill Walker: Thank you.

The Chair (Mr. Peter Tabuns): —but we're not having a vote just this moment. I haven't called a vote. Thus, if you're calling for a recess, I have to poll the committee. It doesn't look like there's support for a 20-minute recess.

Mr. Bill Walker: Okay.

The Chair (Mr. Peter Tabuns): Further debate?

Ms. Dipika Damerla: Maybe five minutes, if they want, because you will always have that 20 minutes before the vote.

The Chair (Mr. Peter Tabuns): Does the committee want a five-minute recess? No. Fine.

Mr. Michael Harris: The only other comment I'd make on this one: You know what? Obviously the definitions are an extremely important part of a piece of legislation, and I'm concerned about the oversight perhaps that was made on adding clause (c) in, and I think where we have a problem is the source protection committees. That's an area that we really have a concern with, so I just wanted to make that clear.

The Chair (Mr. Peter Tabuns): Okay. I see no other requests for speaking. Are we ready to vote? I call the vote.

Mr. Walker.

Mr. Bill Walker: May I now request a recess, Mr. Chair?

The Chair (Mr. Peter Tabuns): Yes, you may.

Mr. Bill Walker: Thank you.

The Chair (Mr. Peter Tabuns): The committee is recessed for 20 minutes.

The committee recessed from 0916 to 0936.

The Chair (Mr. Peter Tabuns): The committee is back in session. We are at the point of taking a vote on subsection 3(1)—

Interjection.

The Chair (Mr. Peter Tabuns): No. We're on the vote, Mr. Harris.

All those in favour, please raise your hands. Carried.

We move to the next amendment, and it's a PC amendment.

Mr. Michael Harris: Six, right?

The Chair (Mr. Peter Tabuns): Yes.

Mr. Michael Harris: I was going to say that we did support the previous amendment—

The Chair (Mr. Peter Tabuns): Are you moving it?

Mr. Michael Harris: I'll get there. I just want to—

The Chair (Mr. Peter Tabuns): Actually you should read it first, then you get to talk.

Mr. Michael Harris: All right. I move that the definition of "public body" in subsection 3(1) of the bill be struck out and the following substituted:

"'public body' means a municipality or local board; ('organisme public')"

The Chair (Mr. Peter Tabuns): Mr. Harris, do you have any comments?

Mr. Michael Harris: Yes, so just a brief comment. On the last one, we were going to support that because we want to ensure that source protection committees do not receive any more power. We've tabled this amendment to the bill because we've said before that far too often we've seen the Liberals set up these new public bodies whose policies duplicate or conflict with municipalities.

If a municipality wants to work with a conservation authority or other public bodies, that should be left up to the local decision-makers. I think my colleagues and I have stated that several times. This is why we're bringing forward amendments such as this. If an area of concern encompasses more than one municipality, then those municipalities really should work together to find a common solution. That's why we have the Great Lakes and St. Lawrence Cities Initiative, where we have elected representatives who have taken a leadership role. I know my colleagues will want to speak further to this amendment, but we believe that this will strengthen the bill, by adding this in—striking it out, rather.

The Chair (Mr. Peter Tabuns): Okay. Mr. Walker.

Mr. Bill Walker: Yes. I want to start off, Chair—I want to just raise this. One of my honourable colleagues across was almost condescending that it took us 20 minutes to figure this out. I want to make it clear here: We didn't write this legislation. My job as a new legislator is to understand what we're putting into force, so that we're not creating poor legislation and creating even more bureaucracy out there. So I take exception and offence, actually, that you're ridiculing us for taking a 20-minute recess to be able to understand legislation that I actually have to go back in front of my constituents and stand in front of them as they say, "Why did you allow this to go through?"

There's a significant amount of stuff in this. I believe the government themselves have 20-plus amendments to their own legislation, which leads me to believe that they either rushed it through or they didn't think it through strongly enough. Part of my job as opposition is to ensure that we put good legislation on the floor. So I take extreme offence that you're ridiculing us for taking 20 minutes to make this decision to vote on something, because I did have questions and I did need to consult staff to ensure that where I was coming from, I was actually going to put my hand in the air and truly support on behalf of my constituents.

I will not ever not ask for that time to do that, because it is my job to do that. And ultimately, you got what you wanted: You got unanimous support. But we're not going to do that just blindly or not taking our diligence seriously. So we will continue to do that and we will continue to ask questions. I believe clause-by-clause means it's our opportunity to read clause by clause and understand exactly what you're trying to do and what the intent of any wording and verbiage in this act is.

You put a lot of stuff in here, and then all of a sudden you're coming in and stroking it out. If it was that important in the first place, why can we so lightly take it out with the stroke of a pen and not have time to actually understand why you're taking it out?

I still have some concerns and some challenges from the perspective of, we are trying to work from the fundamental principle of the people at the local level who are elected. They are the people who talk to the people day in and day out. They are the people who have their bylaws to enforce. We need to ensure—

The Chair (Mr. Peter Tabuns): Could you focus a bit more on the amendment itself?

Mr. Bill Walker: I am, Chair. This is very specific, though, to the whole piece: Our fundamental reason for asking a lot of the questions we have is, how many more layers of bureaucracy are we adding in with some of this, maybe inadvertently, maybe purposefully—but to understand that we want a simple bill that is actually easily enforceable, where people are accountable and it's transparent to those people. When we're asking questions, that's why. We want to understand.

We feel that there are sometimes too many groups and organizations allowed to be at the table who can actually impede the process with their own political agenda. The people who are duly elected should have the right and privilege to be able to do their job. So we're questioning some of those. We want to ensure that that is a concern of an amendment, and that's why we're taking the direction we are.

I don't know if my colleague Mr. Nicholls wants to jump in on any of those pieces, but we need to understand and we want to make sure that all three parties, including the NDP, have their opportunity to voice—and then we can understand where they stand as well.

The Chair (Mr. Peter Tabuns): I have Ms. Cansfield next.

Mrs. Donna H. Cansfield: I appreciate that people need the time to be able to have an opportunity to review a bill. I do. I've been through that process myself. But I think it's been, what, three months now? It's a fairly long time. In fairness, I think there are about twice as many

PC amendments as there are government—67 to 27 or something—when you look at that process.

But I really wanted to be able to speak to the amendment. I think it's important. This comes from the mayors of the Great Lakes and St. Lawrence cities. They welcomed the act and they actually want it passed. But what's even more important—and again, I appreciate that maybe folks don't have this information, so let me share it with you. This says:

"Now therefore be it resolved:

"That council of Huron county request the Ontario Legislature to enact the proposed Great Lakes Protection Act (Bill 6) to protect and restore the health of the Great Lakes-St. Lawrence River basin.

"That a copy of this resolution be forwarded to the Premier of Ontario, the provincial Minister of the Environment, MPP Lisa Thompson and environment critics of the opposition parties."

In addition to that, the Grand River Conservation Authority has said the same thing: "The members of the Grand River Conservation Authority request the Ontario Legislature to enact the proposed Great Lakes Protection Act (Bill 6) and that a copy of this resolution be forwarded to the Premier of Ontario, the provincial Minister of the Environment, local members of provincial Parliament and the environment critics of the opposition parties."

I know, having lived through the challenges—and I'm not using this in a pejorative way, but we dealt with Walkerton. It was a very serious situation. Clean water: 80% of our water comes from the Great Lakes. It's absolutely imperative for us to find ways and means to protect it, and it belongs to a number of people who have some skin in the game; that is, the Ontario Clean Water Agency, the conservation authorities, because we have to deal with headwater initiatives. That also means the municipalities have to have some share in this. It's not one particular area; it's a bunch of folks who have this authority. In particular, the farmers have to have it, and that's why there is support from those farmers. I did stewardship programs with them on Great Lakes restoration. Lake Erie, we fixed; now it's sick again. The problem is nutrients—and that's our drinking water. The largest freshwater commercial fishery in the world is Lake Erie, and yet it's now back in jeopardy. So we have a real responsibility to work together to find this.

I appreciate that this is your motion, so I know you had a lot of time to look at this. You don't need to stall; you need to be able to move forward to these. Again, we have a responsibility to put this in place, because time is of the essence. I appreciate that you need time to look at some of the others. I suspect we've had those three months. I know this is your motion, so you should be fully prepared to be able to articulate and determine which way you're going to deal with this, and certainly we have made a commitment that we will be voting against this motion.

The Chair (Mr. Peter Tabuns): Okay. I have Mr. Nicholls, just to let you know, then Ms. Damerla, then Mr. Walker and then Mr. McNeely.

Mr. Rick Nicholls: Thank you very much, Chair. Again, I appreciate the quote "skin in the game." I truly do, because, again, that gets people more engaged. And of course, it's all about accountability, and that's what we're all about as well.

I think one of the things that we have to look at is that we just don't want to see the province empowering other bodies to create what we would call a glut of new regulations, because that's going to force local governments to go to a lengthy process of amending all of their bylaws in their official plans.

Furthermore, I think really and truly that the province should, in fact, be empowering municipalities to—what I call, and I live by this—do the right thing. I've heard the government talk a lot about civic engagement with the bill, but they fail to remember that local government is, in fact—they're the closest level of government to the people; they're the boots on the ground. I really think that we don't want to be taking power away from them. They're the ones who get out there and look after the situations that arise as it pertains to water and whatnot. To put additional bodies to govern or to oversee—to me, that just slows the process down if something really does need to happen.

The Chair (Mr. Peter Tabuns): I have Ms. Damerla.

Ms. Dipika Damerla: I just wanted to address something that MPP Walker said. It's important that you take my comment in the context of what happened in the last session as well as what I perceive as clearly some intent to slow down the process.

My suggestion is that if there is really concern around some of the government's amendments, my understanding is that technical briefings have been offered. Perhaps a quicker way to deal with this is to sit down with our folks and get a technical so that we don't need a 20-minute recess every single—I mean, I know it's your right, but I'm suggesting that the best interest of taxpayer money is perhaps to get the technical briefing. I know it has been offered, and my understanding is that you have not taken it up. So my advice is, if you have really strong concerns, sit down for a couple of hours and hash it all out. Let's discuss it so that when we're here at committee, the homework has been done and we can get on with actually passing the amendments rather than making this the place where we are doing the homework.

It was in that context, but if I inadvertently offended you, I didn't mean to. Thank you.

The Chair (Mr. Peter Tabuns): Fine. I have Mr. Walker.

Mr. Bill Walker: I would never suggest that you would purposely insult me personally, but I do take offence. I am a new person. I have lots on my table. This isn't the only thing I'm working on. With all due respect, you've had 10 years in government—not yourself, but your party has had 10 years in government; you could have already had this.

To Ms. Cansfield: I agree that you lived through Walkerton, so you would have thought that this would have been a pretty significant piece of legislation. Now, all of a sudden, it seems that today we want to have this passed and just get on with it.

Even to your comment about the municipalities, they endorsed, through that letter, that they want this. Well, who isn't going to, Donna, with respect to protecting our Great Lakes? But did they read through? Now there are some significant things that you're cutting out of your own bill.

The Chair (Mr. Peter Tabuns): Mr. Walker—

Mr. Bill Walker: Are they still actually going to give you that same endorsement?

The Chair (Mr. Peter Tabuns): Mr. Walker, if you'd focus in on the amendment and the substance, that would be great.

Mr. Bill Walker: Certainly. In all of these, all we're trying to say is—we're trying to walk through and say, "Is this really the right thing?" as my colleague just said. Is this the right way—and leaving accountability at the people who are duly elected as opposed to giving it to committees and volunteer groups. They do a great job to have volunteers; of course, we all support the volunteer efforts of people. But we just don't want to subvert the power of the people who are truly democratically elected. We have had a couple of occasions in my short tenure in government—the Green Energy Act—where you've usurped municipal rights. We don't want that to happen again, so we're going to make sure—when we're going through these, we will deliberate; we will take time. If I need a 20-minute break to be able to go and consult and make sure I have all the facts so I can put my hand in the air properly, then I will continue to do that.

And, yes, the ministerial briefings are wonderful. It hasn't happened yet. We'll take that into consideration. But at the end of the day, we want to make sure that we're ensuring that there's accountability, transparency, and that it's back to the local level as expeditiously as possible.

The Chair (Mr. Peter Tabuns): Thank you. I have Mr. McNeely.

Mr. Phil McNeely: Of course, the government does not support this motion. We've heard, through our consultation, the need for partners, including ministries, conservation authorities and others, to have the ability to lead and participate in the development of initiatives and targets to protect the Great Lakes.

I think municipalities in both Mr. Walker's and Mr. Harris's ridings have been supportive of Bill 6. There's a press release here:

"Conservation Authorities Support New Provincial Actions to Protect the Great Lakes.

"Conservation authorities are pleased with today's provincial announcement of a proposed Great Lakes Protection Act, strategy, and support for important local actions."

I think it's extremely important. I think the IJC—I saw it on CBC last night—is coming out with a report saying how terrible Lake Erie is. I know, from the American side—I was at a presentation in Duluth, and one of the presentations was, I believe, on the work the Americans were doing on their side. We are at a standstill as far as dealing with that, even with all the legislation we have.

I read the Hansard last night on the first four motions we got passed. I think it's just atrocious that we should be stalling this bill. I don't think that the opposition party will be happy until they can walk across Lake Erie on the algae. I don't think they are. They have a responsibility to the kids and the next generation. I just feel very, very sad that they are blocking and stalling. Just read the Hansard from the last session.

The Chair (Mr. Peter Tabuns): Mr. McNeely, could you focus on the amendment? I understand your feeling on this, but if you could focus on the amendment.

Mr. Phil McNeely: And so, on the amendment, I don't have any further points to make. I think we just should—I want to vote right now, yes.

The Chair (Mr. Peter Tabuns): Okay. I have Mr. Harris.

Mr. Michael Harris: I think we want to come back to the fact that we're talking about an amendment in terms of who actually initiates this process. We've been very clear that municipalities, the elected bodies, should be that one.

I will say to the member across that, in fact, we have taken ministerial briefings; in fact, I've done two of them. So we'll want to clarify before we make those statements that we've not taken advantage of those ministerial briefings. If you would allow us the time, we could recess right now. Everyone is here. We'll be happy to meet for the rest of the session and get that briefing for my colleagues, to ensure—I'm happy to throw that across, and if you're so inclined to do that, we're happy to do that right now.

I think it's our job, obviously, to get the details, to do the right job and not ensure that there are new layers of red tape and bureaucracy. In fact, that's what we believe this bill is doing.

I just wanted to get that comment on the record.

The Chair (Mr. Peter Tabuns): Okay. I see no other hands. We're ready to go to a vote. All those in favour? All those opposed?

Mr. Michael Harris: Carried? Carried. That's two over there.

Interjections.

The Chair (Mr. Peter Tabuns): Just a second. They, in fact—we're having a vote.

Mrs. Donna H. Cansfield: I'm sorry.

Mr. Michael Harris: We've already voted.

Mrs. Donna H. Cansfield: I thought we were voting on the recess.

Interjections.

Mrs. Donna H. Cansfield: Hang on. Sorry. This is my fault.

The Chair (Mr. Peter Tabuns): It passes.

Mrs. Donna H. Cansfield: We'll reintroduce the motion.

The Chair (Mr. Peter Tabuns): You can reintroduce it at a later point, but we had three—yourself, Ms. Cansfield, and I think Mr. Kwinter—in favour.

Interjections.

Mrs. Donna H. Cansfield: I thought we were voting for the recess. It's my fault.

The Chair (Mr. Peter Tabuns): Okay. On to the next—

Mr. Michael Harris: So that passed, Mr. Chair?

The Chair (Mr. Peter Tabuns): Yes, it was passed.

PC subsection 3(1), number 7.

Mr. Michael Harris: I have a new amendment I'd like to table.

The Chair (Mr. Peter Tabuns): Does it relate to subsection 3(1)?

Mr. Michael Harris: Yes.

Interjection.

Mrs. Donna H. Cansfield: Would it not have been a tie?

The Chair (Mr. Peter Tabuns): No.

Mr. Michael Harris: No.

Mrs. Donna H. Cansfield: One, two, three—he voted.

The Chair (Mr. Peter Tabuns): But you and Mr. Kwinter voted with the Tories.

Mr. Michael Harris: Yes. We've moved on.

The Chair (Mr. Peter Tabuns): We're on to the next—

Mrs. Donna H. Cansfield: My error, our error, because I thought we were voting on the recess. It's all right. It's not a problem.

The Chair (Mr. Peter Tabuns): Members, we have a new amendment. I'm going to have the Clerk circulate it. We'll recess for five minutes while it's copied and circulated.

The committee recessed from 0954 to 1003.

The Chair (Mr. Peter Tabuns): Members of the committee, you've received copies of PC motion 6A. Could I have the mover? Mr. Harris.

Mr. Michael Harris: Yes. I move that the definition of "public body" in subsection 3(1) of the bill be struck out and the following substituted:

"'public body' means a municipality, a local services board within the meaning of the Northern Services Boards Act or a body prescribed by the regulations or an official of such a body;"

This amendment I move is simply just a housekeeping amendment that would provide greater certainty, I believe, in the spirit of co-operation, with my previous amendment. This just tidies—

Interjection.

Mr. Michael Harris: All right. I'll reread the amendment, I believe.

The Chair (Mr. Peter Tabuns): Yes, please.

Mr. Michael Harris: I move that the definition of "public body" in subsection 3(1) of the bill be struck out and the following substituted:

"'public body' means a municipality or a local services board within the meaning of the Northern Services Boards Act;"

Again, this is just a housekeeping item that provides greater certainty when it comes to the Northern Services Boards Act. In the spirit of co-operation with the previous amendment, moving this amendment shouldn't be any big deal.

The Chair (Mr. Peter Tabuns): Okay. Any further speakers on this? Mr. Schein?

Mr. Jonah Schein: Mr. Chair, I just want to take a moment to return to the previous amendment and ask a clarifying question where the government voted with the PCs on the previous amendment. Will they be introducing an amendment to amend the decision that they just made, and is that allowed?

The Chair (Mr. Peter Tabuns): You will hear shortly, but we're on this amendment right now, and we have to deal with this one.

Any further discussion on this? All those in favour? All those opposed? It is lost.

We need to recess for another five minutes for copies to be made of another amendment—five minutes.

The committee recessed from 1005 to 1016.

The Chair (Mr. Peter Tabuns): The committee is back in session. The government has moved an amendment, a motion. May I have that moved by a member of your team there? Mr. McNeely.

Mr. Phil McNeely: I move that the definition of "public body" in subsection 3(1) of the bill be struck out and the following substituted:

"'Public body' means:

"(a) a municipality, local board or conservation authority;

"(b) a ministry, board, commission or agency of the government of Ontario, or

"(c) a body that has been prescribed by the regulations or an official of such body; ('organisme public.')"

The Chair (Mr. Peter Tabuns): Did you want to speak to that?

Mr. Phil McNeely: Pardon me?

The Chair (Mr. Peter Tabuns): Did you have anything further to say?

Mr. Phil McNeely: No.

The Chair (Mr. Peter Tabuns): Fine. Mr. Harris.

Mr. Michael Harris: Clearly, the government is trying to backtrack on something that I believe the committee has already been clear on, so we definitely need a recess to go over this to ensure that it is, in fact, in order and to our liking.

The Chair (Mr. Peter Tabuns): And you're proposing?

Mr. Michael Harris: Five or 10 minutes. Ten minutes.

The Chair (Mr. Peter Tabuns): Is the committee in favour of recess?

Mrs. Donna H. Cansfield: No.

The Chair (Mr. Peter Tabuns): No—

Mr. Michael Harris: I think the additional time to consult the Clerk here on this—this is absolutely in order. I would ask—

The Chair (Mr. Peter Tabuns): Mr. Harris, I have to consult with the whole committee if you ask for a recess. I've consulted; there is not a recess. Mr. Walker.

Mr. Bill Walker: I'm just trying, if we could, so I can understand a little bit more—they've taken out the words "or official." They've stricken that out in section (b). That was, I believe, in the original wording within the bill, but in this amendment, they've stricken those words out of the written piece that we have. Could you give me some clarity on why that would be taken out, just so that we could understand that fully?

The Chair (Mr. Peter Tabuns): A fair question. Mr. McNeely?

Mr. Phil McNeely: I'd like the solicitor for the ministry to come forward and respond to that.

Mr. Bill Walker: I have one other one as well, Chair.

The Chair (Mr. Peter Tabuns): Mr. Flagal, if you would introduce yourself again for Hansard.

Mr. James Flagal: It's James Flagal, Ministry of the Environment's legal services branch.

The Chair (Mr. Peter Tabuns): You have heard Mr. Walker's question. If you could address it, please.

Mr. James Flagal: Absolutely. The committee has already voted on a motion—I believe it's motion 5. I think all parties were voting in favour of striking out clause (c), source protection authorities and source protection committees. The motion was going to be to reintroduce the definition as you see here, which would be all of the clauses you see in "public body" right now, except for clause (c).

However, the motion would be out of order if the motion just did that. It needs to slightly change the definition because the committee already voted on that motion before. So striking out "or official" is really something that does not affect the definition of "public body," because, just quickly, a public body is meant to be a public body.

Just to let you know, this definition that you see here—the definition of public body comes up in many statutes. Many municipal affairs statutes have this type of definition, and others.

So what you see in clause (b) is often said, and it may make sense in the context of that particular statute to include "or official." But again, it only depends on whether or not, let's say, the geographically focused initiative would name an official. It's contemplated—we were told by the Clerk that we needed to basically slightly adjust this particular definition for it to be in order—that the geographically focused initiatives would always be led by a ministry or that kind of body.

That's why the change is there. It's literally just because the motion needs to be slightly amended in order for it to be in order, but it doesn't detract from anything that is in the actual thing, and it still maintains that no source protection committee or source protection authority is a part of this "public body" definition. That was voted on before.

The Chair (Mr. Peter Tabuns): Okay. Mr. Walker?

Mr. Bill Walker: Thank you, Chair. If I could just ask the government official, Mr. Flagal, to come back to the table; I have a couple more, because it seems to me that two things are going on.

Now we're talking about a technicality, as opposed to if it's really a benefit and of value to the people of Ontario. It's a technicality to be able to move it backwards, so I have a bit of concern with that, but I'll try to get my head around it.

I hope you'll appreciate and respect that I am a new member, so I don't understand a "public body" in something like municipal affairs legislation, which I may not have dealt with yet. I am really, honestly, sincerely trying to get my head around understanding that.

The other piece of this that I want to bring into (c) "a body that has been prescribed by the regulations or an official of such a body"—can you give me an example of a body that might be added in there? Then I'll have a further question—a point of clarification, I think.

Mr. Michael Harris: Chair?

The Chair (Mr. Peter Tabuns): I'll put you on the list.

Mr. James Flagal: There are many cases where a definition can be expanded by regulation. If you don't have a particular entity that's recognized in the definition itself—(a), (b) and (c)—there may be cause for a government to say, "We want to prescribe another entity." Off the top of my head, I can't think of a particular thing. I'd have to go and consult with my clients, but this is similar to those other definitions, where you can expand or add to the entities by regulation.

Mr. Bill Walker: So theoretically, a source protection committee could be added in there, even though it's been struck out of the overarching definition, by using this terminology, "a body that has been prescribed by the regulations." You could theoretically bring that back in, a source protection committee?

Mr. James Flagal: I think theoretically, yes, but I think it's clear that the direction has been given here that obviously committees and authorities have been struck out of the definition in the legislation itself.

Mr. Bill Walker: Again, in all due fairness, if I think of the Green Energy Act, theoretically you've taken away the ability—and practically you've taken away the reality—of a local elected official to have any say in where a wind turbine is. That's why I have some challenges when I hear those types of things, because theoretically, "This committee said, 'No, we can't really go there."

The Chair (Mr. Peter Tabuns): Mr. Walker, you have no further questions?

Mr. Bill Walker: Well, yes. My colleague will, I'm sure, jump in, but the other thing I'm trying to get here is that I believe there are already a number of agencies between the US and Canada. We have the International Joint Commission, the Great Lakes Water Quality Board,

the Great Lakes Executive Committee and the management committee of the Canada-Ontario Agreement—COA—all of which worked to implement the priorities outlined in the Canada–US Great Lakes Water Quality Agreement.

Our concern, again, is that when we start doing some of these, how many more layers of special interest, how many more layers of people are we going to add in there? That's the fundamental principle of why we tried to keep this simple—a local board or municipality—so we keep it clean, because you have all of these other bodies already working, I trust, in a very similar manner.

Mr. James Flagal: The definition of "public body" and the way to understand "public body" is where it comes up again in Bill 6. Where it comes up is that a public body, along with other public bodies, can lead the exercise of developing a geographically focused initiative, which is two steps. First you have terms of reference, which basically set out what's going to be in the geographically focused initiative, and then you basically develop the initiative itself, and that can be done with one or more public bodies. That's why the list you see here could be a ministry or could be a conservation authority, along with municipalities.

Finally—

The Chair (Mr. Peter Tabuns): Mr. Flagal, I apologize for interrupting, but we are at the end of our time for today. This committee stands adjourned until its meeting next week, when we continue clause-by-clause.

The committee adjourned at 1025.

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Ms. Valerie Quioc Lim

Staff / Personnel
Ms. Tara Partington, legislative counsel

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ISSN 1180-4319

Legislative Assembly of Ontario

Second Session, 40th Parliament

Assemblée législative de l'Ontario

Deuxième session, 40e législature

Official Report of Debates (Hansard)

Wednesday 5 March 2014

Journal des débats (Hansard)

Mercredi 5 mars 2014

Standing Committee on Regulations and Private Bills

Comité permanent des règlements et des projets de loi d'intérêt privé

Great Lakes Protection Act, 2014

Loi de 2014 sur la protection des Grands Lacs

Chair: Peter Tabuns
Clerk: Valerie Quioc Lim

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Room 500, West Wing, Legislative Building
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Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario

Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 5 March 2014

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Mercredi 5 mars 2014

The committee met at 0900 in committee room 1.

GREAT LAKES PROTECTION ACT, 2014
LOI DE 2014 SUR LA PROTECTION DES GRANDS LACS

Consideration of the following bill:

Bill 6, An Act to protect and restore the Great Lakes-St. Lawrence River Basin / Projet de loi 6, Loi visant la protection et le rétablissement du bassin des Grands Lacs et du fleuve Saint-Laurent.

The Vice-Chair (Mr. John Vanthof): The Standing Committee on Regulations and Private Bills will now come to order. We're here to resume clause-by-clause consideration of Bill 6, An Act to protect and restore the Great Lakes-St. Lawrence River Basin. The committee is resuming debate on government motion 6b.

If it is the committee's will, I'd like to resume with the speaker list that was developed at the last committee meeting. According to that speaker list, I believe it's Mr. Harris.

Mr. Michael Harris: Has the motion actually been read in yet? We never got to this, did we?

The Vice-Chair (Mr. John Vanthof): I can read it in right now.

The Clerk of the Committee (Ms. Valerie Quioc Lim): It was moved but—

Mr. Michael Harris: It was? Okay.

The Vice-Chair (Mr. John Vanthof): I will read the motion in:

Motion to be moved in committee by Mr. McNeely:

I move that the definition of "public body" in subsection 3(1) of the bill be struck out and the following substituted:

"'public body' means:

"(a) a municipality, local board or conservation authority;

"(b) a ministry, board, commission or agency of the government of Ontario; or

"(c) a body that has been prescribed by the regulations or an official of such body; ('organisme public')"

This was moved by Mr. McNeely.

Mr. Phil McNeely: I heard it, and what I have written here under (b) is "a ministry, board, commission or agency." That was just a small—

The Vice-Chair (Mr. John Vanthof): Okay. We have the comma, perhaps, in the wrong place.

Mr. Phil McNeely: This motion would replace the definition of "public body" with one that includes municipalities, conservation authorities, provincial ministries or a body prescribed by regulation. This motion recognizes that public bodies should be those with a core regulatory mandate related to the protection of the ecological health of the Great Lakes.

Mr. Rick Nicholls: What are you reading?

Mr. Michael Harris: I'll wait until he's done.

The Vice-Chair (Mr. John Vanthof): Is that a new edition?

Ms. Dipika Damerla: No, no, he was just giving the rationale.

The Vice-Chair (Mr. John Vanthof): Thank you.

Mr. Michael Harris: I need to ask the government lawyer questions on this, so I'd ask him to come forward.

Ms. Dipika Damerla: Chair, can I just suggest—I mean, the question should come to the parliamentary assistant, and then perhaps directed to officials. That's my understanding of the protocol, if you want to rule on that.

The Vice-Chair (Mr. John Vanthof): They have the ability to call ministry staff, so if you would like to call him, please.

Mr. Michael Harris: Yes, thank you. Do you want to come forward? So my question here is—

The Vice-Chair (Mr. John Vanthof): Excuse me. Could you please give your name for Hansard?

Mr. James Flagal: Sure. My name is James Flagal, and I'm with the Ministry of the Environment legal services branch.

The Vice-Chair (Mr. John Vanthof): Thank you.

Mr. Michael Harris: A question for you: Was the intent of this amendment simply to replace the one that was struck, the last one? Was it simply just to put back into the legislation the one that we had removed? Was that the intent of this?

Mr. James Flagal: The committee had already voted in relation to the definition of "public body" that's now in Bill 6. The committee had already voted to strike out, if you look at the definition of "public body," clause (c). So clause (c) was already voted to be struck out, to not include a source protection authority or a source protection committee.

Then, as you know, there was another motion. This motion just tries to reinsert "public body" without clause (c), and then, as I explained last week, "or official"—I think Mr. Walker asked why that was struck out. It would be out of order to put in a definition of "public body" without a slight modification to the definition because it was already something that the committee had considered. This is basically the definition of "public body" again.

Mr. Michael Harris: So basically, yes, this new motion is simply trying to redo something that was done last week when the government voted with the Conservatives to modify that definition.

Mr. James Flagal: Yes. I'm not sure I'm following the question. It's to be consistent with the direction that the committee already voted on. I think it was all members that voted on that, and that was to strike out clause (c).

Mr. Michael Harris: But we're adding it back in now. The one before this, we voted to remove it. Now you're bringing it back with just a slight change. The real intent is just to bring back the definition as it was before the committee voted to strike those aspects of the definition.

Mr. James Flagal: You can speak to the government members. My recollection was there was a vote on the definition of "public body". All members voted to strike out clause (c). Then there was another vote. There was an indication by one of the members that they wanted to vote a particular way. They did not and—anyhow, there is a desire now to go ahead and reconsider the definition of "public body," which is within the rules. It's fine so long as there's a slight modification. This is in order. The attempt is to—the motion is to put back in the definition of or the term "public body," with the clauses, except for clause (c).

The Vice-Chair (Mr. John Vanthof): Mr. Schein first.

Mr. Jonah Schein: I think it's well established that we've actually spoken about the essence of this amendment quite a bit. In fact, the amendment that we're talking about right now has simply been put on the floor to try to fix a mistake by the government, who mistakenly voted for the Conservative amendment. That's why I would like that we call the question and vote for this now.

Mr. Michael Harris: I do have a subamendment.

The Vice-Chair (Mr. John Vanthof): Mr. Harris.

Mr. Michael Harris: I do have a subamendment that I'd like to put forward. Do you want me to read it out?

The Vice-Chair (Mr. John Vanthof): If you could go ahead and move it, please, Mr. Harris.

Mr. Michael Harris: I move that the definition of "public body" in subsection 3(1) be amended by striking out clause (a) and substituting the following:

"(a) a municipality or a local services board within the meaning of the Northern Services Boards Act;"

The Vice-Chair (Mr. John Vanthof): I'm going to ask for a short recess so we can have copies made.

Ms. Dipika Damerla: Shouldn't we first be voting on the motion as put forward by the government, rather than amending it, and then they can introduce their amendments if they wanted to?

The Vice-Chair (Mr. John Vanthof): He's moving an amendment to an amendment. That's within the rules.

The committee recessed from 0908 to 0920.

The Vice-Chair (Mr. John Vanthof): We'll resume debate. Has everyone got a copy of the amendment?

We'll go back to Mr. Harris to introduce it.

Mr. Michael Harris: So I'll reread this revised amendment to 6B.

I move that the motion be amended by striking out clause (a) in the definition of "public body" and substituting the following:

"(a) a municipality or a local services board within the meaning of the Northern Services Boards Act;"

Really, the reason for the subamendment would remove conservation authorities from the definition of public bodies and properly define what a local board really is. We believe that locally elected representatives should take the lead on this, and if a municipality wants to work with a conservation authority or other local governments within their watershed, that should be left up to local decision-makers who actually have been elected. I think a great example of this actually is decision-makers taking a leadership role. The Great Lakes and St. Lawrence Cities Initiative is a fine example.

So "local board" is not properly defined in the government's subamendment, and we need to ensure that this definition refers to a municipal board and not a school or police services board and so on.

We can ask the committee lawyer to explain to the committee why we put that definition there and why that potentially is important.

Ms. Tara Partington: Is the question, why "local services board" has been substituted for "local board"?

Mr. Michael Harris: Well, why adding in "local services board within the meaning of the Northern Services Boards Act" specifically.

Ms. Tara Partington: So within the bill right now, "local board" is defined in subsection 3(1). It has the same meaning as in the Municipal Affairs Act. If you go to the Municipal Affairs Act, that definition is the following: "'local board' means a school board, municipal service board, transportation commission, public library board, board of health, police services board, planning board, or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special act with respect to any of the affairs or purposes, including school purposes, of a municipality or of two or more municipalities or parts thereof."

The "local services board within the meaning of the Northern Services Boards Act" is a different thing. My understanding is that it functions similarly to a municipality within unorganized territory in the province.

Mr. Michael Harris: I guess it's important that the government lawyer address this question that I have. Was

that the initial intent, to include boards such as police boards? Would that be the intended scope perhaps of this bill? Was that where you were going with this, or is this a change that you would agree needs to be better defined?

The Vice-Chair (Mr. John Vanthof): Mr. Flagal, could you come forward, please?

Mr. James Flagal: This definition of "public body" is consistent with other statutes like the Lake Simcoe Protection Act, where the same thing that you see in clause (a), "public body"—you see here, right?—means "a municipality, local board"—like in the Lake Simcoe Protection Act as an example, and many statutes do this, by the way. When they use the term "local board," they then go on to say that "local board" has the same meaning as what is in the Municipal Affairs Act.

Your question, as I understand it, was, what was the intention by doing this? The term "public body" is best understood by looking at where it comes up in the bill as a particular concept. What do public bodies do under this bill, as an example. They can lead the preparation of a proposal for a geographically focused initiative alone or in coordination with other public bodies. They can then, after that proposal is approved by the Lieutenant Governor in Council, go and prepare a geographically focused initiative, which gets submitted to the minister and then is approved, again, by the Lieutenant Governor in Council.

Finally, as we see in the implementation part of the bill, public bodies can be given certain responsibilities for policies under the geographically focused initiative, like a monitoring policy. That's why it's best understood in the context of that.

The desire here is that if you are naming, for instance, public bodies in a geographically focused initiative about which public body is responsible for monitoring the quality of water or something like that in relation to a geographically focused initiative focused on trying to reduce nutrients because of a nutrient concern, there may be a desire, when the geographically focused initiative is being developed by the municipality, to say, "You know what? We've set up this local board that does all our sewage and water works," and this is often the case. They will set up a local board to operate that. That sewage and water works local board may have certain expertise that they think is appropriate, that they should be conducting this particular monitoring program they have designed in that policy.

So that's why the definition of "local board" relies on the Municipal Affairs Act, because municipalities often act through these local boards that they establish. But you're right: It was not intended to capture these local services boards that you're talking about that are in unorganized territory.

Mr. Michael Harris: Would you agree with our amendment to properly define what a local board is, so that we can avoid any bureaucratic mess that would be left if we leave it ambiguous by saying "local board" and not properly define it?

Mr. James Flagal: I don't have the amendment. Unfortunately, someone didn't give me a copy of the amendment, but I understand the amendment to be—

Mr. Michael Harris: Can we get him a copy of the amendment?

Mr. James Flagal: Okay. As I understand it, your amendment is to replace this "local board" here—is this correct?—in order to give it with "northern services board"?

Mr. Michael Harris: We want to properly define what a local board is.

Mr. James Flagal: I think the problem would be that now you've struck out the ability for municipalities to even come to their local boards. Not only is "conservation authorities" missing here; you've said, "We don't want 'conservation authorities' here because they're not elected officials," even though municipalities actually appoint all the members of a conservation authority for their board.

Mr. Michael Harris: We're leaving the municipality in.

Mr. James Flagal: What you're trying to do, as I understand it here, is get rid of the concept of "local board" and replace it just with "local services board," and I guess the only—

Mr. Michael Harris: No, no. We're trying to properly define what a local board is.

Mr. James Flagal: But you've knocked out "local board" within the meaning of the Municipal Affairs Act.

Mr. Michael Harris: So we don't have police boards trying to establish a geographically focused initiative.

Mr. James Flagal: As I said, the local board definition in the Municipal Affairs Act speaks to local boards in municipalities established to carry out municipal types of services like sewage and water services.

Mr. Michael Harris: I just think it's—

Mr. James Flagal: I understand. It's something for the committee to discuss, but I think the problem, when you're looking at this, is that when it comes to giving responsibilities to a public body, like a local board in a geographically focused initiative—the desire here is that there may be appropriate times when developing a document like a geographically focused initiative to say, "This local board that is responsible for sewage and water services, they may be appropriate for doing this type of monitoring program," because, for instance, they're responsible for the sewage treatment plant that discharges all these nutrients into the water. So we don't want to put that on the municipality. The municipality's developing its geographically focused initiative and says, "We're going to give this monitoring responsibility to our local services board."

Mr. Michael Harris: I don't know if I can go back to the committee lawyer on the verification of why we need to clearly define that. In hearing what he said, what is your opinion of that?

Ms. Tara Partington: I think that the confusion that's arising is "local board," within the meaning of the Municipal Affairs Act—it means a lot of different things. I read it out so you would see all the things a local board could be.

My understanding of what Mr. Flagal's saying is that the intention is not for school boards or public library

boards to be involved necessarily, but the definition of "local board" includes any other board, commission, committee, body or local authority.

0930

I think what he's saying is that there might be appropriate boards, commissions, committees or bodies within that definition that would be suitable to meet the policy objectives of the geographically focused initiative. I think your concern, as I'm understanding it, is that the definition is broader than it maybe needs to be. As Mr. Flagal said, it's something to be discussed.

Mr. James Flagal: And just quickly, nothing in this bill imposes itself as a free-standing obligation on a public body or a local board. It's all done—because this is enabling legislation—through the design of a geographically focused initiative. I understand the concern: "Oh, my God, we may see a geographically focused initiative telling these police services boards to go out and monitor water quality." Well, I believe that the public bodies that are going to be charged with the responsibility for developing a geographically focused initiative aren't going to sit around the table and go, "Hey, let's get the police to go and monitor water quality." That's why—

Mr. Michael Harris: Or you could have it vice versa, though. The unintended consequence, in fact, would be to allow those police boards to bring forward that—

Mr. James Flagal: No, I understand that. This definition—again, we've talked about this, "public body" as enabling—is consistent in many statutes, and that type of nuisance hasn't happened. So even though "public body" in the Lake Simcoe Protection Act had the same definition, when you went to the Lake Simcoe Protection Plan, you never found that a police services board was given a responsibility. What happened in the Lake Simcoe Protection Plan was—and there, it was obviously a plan that was done by the ministry in concert with the local authorities—there was a lot of consultation about which bodies were appropriate to do what. That's why I think when you read the definition of "public body," it's so important to know the context of where it comes up in the bill.

Mr. Michael Harris: Well, I think it's appropriate to ask the government, then, what other boards under the Municipal Affairs Act would potentially need to be included here, and I ask them that question. We want to avoid a bureaucratic mess at the back end. We want to get it right. We want to properly define it, and that's why we've put forward this reasonable amendment to do such. I'm just curious now if the government can explain or tell us whether their local boards may be included.

The Vice-Chair (Mr. John Vanthof): Legislative counsel?

Ms. Tara Partington: If I may, I just want to clarify one additional thing, which is that "local board," within the meaning of the Municipal Affairs Act, as I understand it, does not currently include local services boards.

Mr. James Flagal: No, it does not.

Ms. Tara Partington: So this is another distinction. Number one is, your amendment to the amendment has removed "local boards" from the provision and you've added in "local services boards," which are the governing entities in unorganized territory. Right now, that is missing. That does not appear in the proposed government definition of "public body." The only way local services boards could become public bodies under this act is if they were prescribed by the regulations under clause (c).

There are really two issues, as I see here: the question of local boards and the question of local services boards.

Mr. James Flagal: And that's what you've done—just to rephrase again, when you remove "local board" the way that you have, if a municipality is sitting around and they are responsible, along with other municipalities, for developing a geographically focused initiative, many of them have set up local boards to basically carry out their services. You have removed the ability for them to say, "It would be a really good idea for our local board, which is responsible for our sewage and water services, to carry out this monitoring program." That's what you've done with this particular motion.

It is important for municipalities, when they are developing a geographically focused initiative, to be able to have the flexibilities to say, "You know what? I think we're going to assign this responsibility to our local board." That's what you've removed with this clause.

The Vice-Chair (Mr. John Vanthof): Mr. Schein was first on my list.

Ms. Dipika Damerla: I was before him.

The Vice-Chair (Mr. John Vanthof): Well, Mr. Schein has been on my list for a long time.

Mr. Jonah Schein: I appreciate the input from legislative counsel and I'd like to call the question.

The Vice-Chair (Mr. John Vanthof): I will say that I've got quite a speaking list, and I think they deserve to be heard. Thank you.

Next on my list is Mr. Nicholls.

Mr. Rick Nicholls: Thank you very much, Chair. To Mr. Flagal, if I may—perhaps you may want to join us. Sorry, I was trying to get your attention so you wouldn't be playing musical chairs.

First of all, I want to thank you for that clarification—I think you did well—and our legislative counsel, for trying to help clarify this.

I think, again, the intent of this subamendment, in my opinion, is to narrow the definition of "public body" in scope, so it is more specific, recognizing the fact that, in general, the term "public body" has a wide scope. We're trying to just zero it in on this particular bill, hence, eliminating any other, perhaps, confusion that may in fact create some confusion amongst other boards.

Again, as I go back to looking at "a municipality or a local services board within the meaning of the Northern Services Boards Act," could you not see where, perhaps, having a more narrow scope of definition would be of benefit to this particular bill and assist in the further clarification?

Mr. James Flagal: That's a policy matter for the committee to make, but I'll say this: What I see as substantive—and I would ask these questions back to the committee. I would say, is it the desire of the committee to remove the ability of a municipality to say, "We'd like to give this responsibility to one of its local boards"? If the answer to that is, "No, no, we don't want to take that away; we understand municipalities need to make those decisions," and we want to keep in that concept, I would say, okay, I would suggest keeping in "local board."

Then the next question I would ask is to consider carefully whether or not these local services boards are the appropriate entity you want to give a geographically focused initiative to, because it is an unorganized territory, and also whether or not you want to give them responsibilities etc., because again, geographically focused initiatives come with certain responsibilities. My understanding is that local services boards do have a limited capacity in that sense, but if the desire is, "No, we want to be able to name them in case we want to name them," that's fine; you would preserve that.

The only other thing I see that's different, from what you've suggested here, is the desire to take away conservation authorities. Obviously, you've seen other motions that try and preserve conservation authorities as a potential public body, but if the desire of this particular motion is to remove conservation authorities, that they should not be responsible for the development of geographically focused initiatives or they should not be given responsibilities for monitoring programs and the like of geographically focused initiatives, that's fine. Again, that's a policy consideration, and that may be your assertion about why we want to remove conservation authorities.

Mr. Rick Nicholls: Thank you. I appreciate that. The point being, as well, is that we see this—at least I see this—as we're trying to minimize a lot of bureaucratic red tape. Getting other boards involved, like conservation, whereby they could slow down a process in terms of the decision-making and hence, that's why we want to have it more narrow in scope and eliminate the conservation—

Mr. James Flagal: Okay, and I get that, but one thing I'll say quickly about conservation authorities as you pointed out, my experience with legislation has been that when it comes to something like a geographically focused initiative, which will largely be about the watershed, conservation authorities have enormous expertise in this area.

I know we've done initiatives like the Lake Simcoe Protection Plan, as an example; they were a critical player. In fact, they brought together all the municipalities. There was a very collaborative effort and, in fact, it made things far more efficient by having the conservation authorities involved. I'll just point that out.

The conservation authorities are really often the ones that have, for instance, a lot of fantastic documents on watershed plans. We know that there are many conservation authorities that, with their municipal involvement, have very important and developed types of programs that could feed into these geographically focused initiatives. I think the intention is that conservation authorities be working with their municipal partners etc. on the development of a geographically focused initiative, and then when it's being implemented, to assume certain responsibilities.

Just like you see, again, in the Lake Simcoe Protection Plan. If you go to that plan, you can see the different responsibilities that the Lake Simcoe Region Conservation Authority has—

Mr. Rick Nicholls: So, then, what you're suggesting there is that they would be serving in an advisory capacity?

Mr. James Flagal: No; it's always important to look at the way "public body" comes up in the bill.

When you get to the geographically focused initiative, I think many people think, "Oh, the public body must be the one and only." When you read the bill, you find out that, no, a geographically focused initiative can be led by many public bodies, more than one.

And then a public body comes up, for instance, in the provision dealing with monitoring programs. If there's a monitoring program in a geographically focused initiative, they're directed that they must implement it. Certainly, a body like a conservation authority would be perfectly appropriate for carrying out monitoring programs. They do that now in the watershed, and they certainly do so, for instance, in the Lake Simcoe Protection Plan.

0940

Mr. Rick Nicholls: All right, thank you. I have no further questions.

The Vice-Chair (Mr. John Vanthof): Ms. Damerla.

Ms. Dipika Damerla: Thank you, Chair. Actually, I had a question for—

Mr. Michael Harris: Mr. Flagal.

Ms. Dipika Damerla: My apologies.

Mr. Rick Nicholls: We're going to have to get you a seat belt.

Mr. James Flagal: Yes, I'm sorry. I don't want to take up too much of your time.

Ms. Dipika Damerla: Chair, I have two distinct comments to make. One is that I noticed that the PCs' motion number 7 contradicts their subamendment to our—well, I don't know what the number is. I just have it as 7 here.

Mr. Michael Harris: 6B?

Ms. Dipika Damerla: No—yes, it would be 7.

Mr. Michael Harris: We're on 6B.

Ms. Dipika Damerla: I know, but the one that comes after.

Interjection.

Ms. Dipika Damerla: What's that? I'm just pointing out that it contradicts your subamendment, because in that, you actually say you want the conservation authority. So I'm at a loss to understand what has changed, because this was your own amendment. That was one.

My other is, I do hear MPP Harris's concern around—I had a question for legislative counsel, because I do hear

his concern. Does it have to be either/or? Does it have to be a definition that is so restrictive that municipalities would not be able to appoint somebody like the sewer board that you were talking about? Or then you're stuck with a situation where we know that, in a reasonable world, the police services board would never be asked to do, but you do wonder about having legislation that allows that to happen.

So isn't there a way to address his concern but, at the same time, leave municipalities the flexibility to either create a new board that they see fit to sit on whatever conservation committee it is—the public body? Give them the flexibility, but take away the ones that would definitely not ever be required to sit—a school board or a police board. I'm trying to understand that.

Mr. James Flagal: I do. Thank you. There's always a challenge, when you're developing legislation, to try and craft legislation with the proper parameters so that it has the flexibility to go into the future, to achieve the purposes that you want to achieve without, all of the sudden, making it so restrictive that you have left something out.

What I can tell you is that the definition of "public body," by including this definition of "local board," is not unique or anything else. This is something that I've seen in many other statutes like this.

When that happens, I guess my answer would be, the reason why—if you're asking me is that okay, is there going to be a mischief or a nuisance—is because I look at the bill as a whole of where "public body" comes up, and my experience has been that when that has happened, no, the police services board hasn't, all of the sudden, gotten a call from somebody, saying, "Why aren't you monitoring the water quality?" And why? Because the bodies responsible under that statute for administering it ensure that the legislation is implemented in a way that's a wise fashion. That's why you have controls like—a geographically focused initiative comes back, after it has been developed, to the Lieutenant Governor in Council for approval, to make sure that it is appropriate, just in case—and I can't imagine this would ever be—that somebody would draft a geographically focused initiative and put that kind of responsibility, let's say, on the police services board.

The reason why that doesn't even happen at that instance is because, when you develop documents like this, you must consult with the bodies. This happened in the Lake Simcoe Protection Plan; it happens under source protection plans. Whatever plan it may be, you always consult with the bodies that have to implement.

The police services board would find out very early on in the process: "Oh, we're thinking about giving you a water quality monitoring program." I think the police services board would say, "Well, it's not really covered in our budget."

I think that's why it is consistent with legislation that when you provide a definition like this, it is broad, and the way that it basically gets implemented is the way it controls that there's no mischief or nuisance.

Ms. Dipika Damerla: Let me just ask a question. If you had a mayor who was, I don't know, a little bit different than the average mayor and decided to appoint the police services board and give them this responsibility, is there anything in the act that would stop the mayor from—

Mr. James Flagal: Yes—

Ms. Dipika Damerla: Okay. That's what I wanted to understand.

Mr. James Flagal: The answer is, there are many controls—

Ms. Dipika Damerla: That's fair, then. Okay.

Mr. James Flagal: —including the way in which these documents are prepared. You could potentially put a rule in place that says you can only impose a responsibility on a particular board so long as they have given their concurrence with that responsibility—that sort of thing.

All I can say is that, yes, there are many, many ways to make sure that the geographically focused initiatives impose responsibilities on the appropriate body.

Ms. Dipika Damerla: Chair, I would say that his response satisfies me, that it addresses the concern that MPP Harris raised—but I'm happy to hear his views. But I do feel strongly that the conservation authority ought to be in there, and I'm not sure why you're dropping it because your next motion asks for the conservation authority to be in the act, so there's no way I can support that. I just wanted to make that clear. That's all we have to say.

Mr. Michael Harris: I'll directly respond to that, then?

The Vice-Chair (Mr. John Vanthof): Mr. Harris, directly respond to that, and then we'll go back to the speaking list.

Mr. Michael Harris: I'll directly respond to that. There's a succession of amendments. Eventually—7R comes before 7, so we'll get to that, and it's a succession.

Mr. Flagal, you talked about the police board. Don't forget, though, is it not correct that a public board actually initiates a GFI? The police board wouldn't get tapped to start it; they would actually have the ability to initiate it. You bring up some very legitimate concerns, and that's why we want to properly define it.

So secondary to that first question, my second question that I didn't get an answer to is, I think it's important that the government—we want you to just tell us what other boards may be included so we can properly define it and know who is in and who is out and leave it open-ended, because a public board initiates a—

Mr. James Flagal: But that's—I'm so sorry.

Mr. Michael Harris: Go ahead.

Mr. James Flagal: That's not the way the bill is structured. You just have to go to part V, section 9 of the bill: Geographically focused initiatives are actually initiated by the process set up in subsection (1), and that is, first, there is a council meeting where the minister is tabling a summary of a proposed direction that he or she is considering. If a police services board is very interested—that's great; we want to protect the Great Lakes—and wants to go ahead and do a geographically focused

initiative, as you contend, they just can't go ahead and start the process. The process is set out in part V, and it really does start out with the minister initiating that process.

Just quickly, no doubt, as you know, when you have the ability for a minister to initiate a process, people can write in, and they often do. They say, "We think it would be appropriate, Minister, to consider a geographically focused initiative in the Grand to deal with the nutrient problems in the Grand. We've had a problem" etc., and then the ministry could come together with the particular watershed partners on that particular theme—municipalities, potentially the conservation authority etc.—and try to develop something called a summary of a proposed direction, which would be tabled at a council meeting.

Mr. Michael Harris: Right. Again, you bring up some legitimate aspects to this. We are simply asking to list those other boards that may be included so we can properly define and move forward. That's all we're asking when we ask the government what other boards may be included in this.

Mr. James Flagal: This—and then I'll leave it over, because it is something for debate in committee: Other legislation doesn't try to list the boards simply because under the Municipal Act, a municipality has the ability to create local boards to give services to local boards, and I guess there would be a concern that you may not get all the local boards that you want. That's why it's meant to be enabling. I agree the police services board—when would they ever be involved? But that's why so many pieces of legislation like this rely on the definition of "local board"—it's enabling. Which exact local board gets basically tagged with responsibility is really controlled through the implementation of the statute.

The Vice-Chair (Mr. John Vanthof): Mr. Walker. I have a long speaker list; I can't help it.

Mr. Bill Walker: Mr. Flagal, if I could, please. I'd like to thank you because you have provided much better clarity for me. I think what we're trying to get at—or certainly what I'm trying to get at—is the clearer you can make legislation for the average person to understand, the better it's going to be for all of us. Would you agree with that?

Mr. James Flagal: Like I said, honestly, there's a real balance. What you're bringing up is something that is a fascinating thing for me. I know with respect to development of legislation in environmental protection matters, the Supreme Court has often said that when you're developing environmental protection legislation, you have to make sure that you provide the proper breadth, all the time. That's why general pollution prohibitions, as an example, are as broad as they are.

I hate to draw that as an example, but "Thou shalt not cause an adverse effect." Many people have said, "Oh, my God, that's so broad, your definition of 'adverse effect,'" and they've taken runs at it constitutionally. But the courts have said, "Well, my goodness, pollution comes in so many forms. How can you know what's going to happen in years to come?"

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It's a very rough analogue to this whole thing of, "Does legislation have to be precise?" In fact, legislation sometimes needs to be crafted to anticipate things that are off in the future; we're trying to make sure that we can basically accommodate those particular needs. That's why there's a real struggle; there's no doubt about it. But in environmental protection matters, I often find that's the type of thing, and the Supreme Court has often commented on that, especially on environmental protection laws.

Mr. Bill Walker: I certainly appreciate that you would craft it with that thought in mind. But from the other side, we get a lot of pushback at our local level, as legislators, from the more localized municipal council legislators, who are saying, "We have to actually execute. We have to put these things and implement them. We have to be the people who do it."

One of the biggest concerns we have when it's that broad is that you could theoretically have an unelected body, a guardians' council, that actually is unelected, coming in, again, with more administrative bureaucracy, putting requirements and directives in to a local municipal council to have to do.

I look at this amendment and say that "a municipality or a local services board within the meaning of the Northern Services Boards Act" gives it back to that local municipality. It gives it to that council to be able to make the decision. They can appoint whomever they wish to serve.

There are some people who would suggest even that a conservation authority has expanded their scope over time to be much more powerful than what they were originally set out to be, and they've expanded their broad terms. So there are concerns about that.

What I'm really trying to get my head around is back to that "clearly defined," respecting that there needs to be some broad vision, but it needs to be defined so that you can't usurp.

I'll use an example with respect to the government of the day. The Green Energy Act totally usurped not only the Municipal Act, but every other act out there, and took total autonomy and decision-making power away from the responsible people who were elected. Our concern is that if the wrong group got involved, it could do the same thing, and you could have people who are very much a special interest group driving the bus, but the local councillor and the local taxpayer have to pay to implement that.

We have very broad concerns that it's too ambiguous at this point, and we're just trying to say, "Look, there's a municipality here. They should be able to appoint whomever they wish within their own area that they know, and move forward." We just don't want the legislation to be too broad and ambiguous. That's where I'm trying to get to.

I certainly appreciate where you came from, but it's concerning that we can't find a way—when I read "a municipality," should the municipality not be able to appoint whomever they wish?

Mr. James Flagal: There was a lot in your comments, just quickly. First, let's start with the role of council, because that's one of the first things you raised. What I read from that—and I could be wrong—is that you have a concern about the role of this council.

Mr. Bill Walker: I have to clarify so that you can answer appropriately.

Mr. James Flagal: No, no. That's okay. The reason I say this is because I think there is imputed in this a lot of concern about the policy of the bill that's being infused into this definition of "public body." What I would point out is that if there are certain policy directions that you have concerns with in the bill, it may be more appropriate to address them within those particular parameters.

I want to give you an example of council. Council doesn't come up in the definition of "public body." If one of the concerns is that council has too great a role when it comes to these geographically focused initiatives because they can impose their will, let's say, on municipalities, the first thing I would say is: "Oh, no, no. Council is really merely advisory," so that would be number one; and number two: "Municipalities are actually given the ability." They will be working to decide who gets sent to council.

But more importantly, as you talked about the geographically focused initiatives, I think the desire is that the municipalities that want to particularly take a lead in this, the next step would be approaching the minister and they'd work together to develop something that would basically go.

That's why I wanted to basically say that if that is the concern, I'm not sure if it's through the definition of "public body" that's going to get at your concern, and I need to understand exactly what perception you have of the bill, if you have a concern, and then I could basically point out and say, "Well, I don't think that's a concern because this is the way this works." Or sometimes I may say, "Oh no. If that's a concern, that's fine; you'd have to change this section."

But I say that just because we're talking about a lot of matters that are substantive in the bill through the context of this frame of the definition of "public body." And the definition of "public body" is just a definition right now and it can only be understood where the term "public body" comes up in the bill. That's the only way to understand this particular definition and whether it's appropriate.

Mr. Michael Harris: So—

The Vice-Chair (Mr. John Vanthof): Excuse me, Mr. Harris. Mr. McNeely has been on the list a long time.

Mr. Phil McNeely: Thank you, Chair. I just want to say that lots of other legislation use the definition that the government motion proposes for public bodies.

It seems strange that the amendment to our legislation would throw out conservation authorities, where the PC motion to Bill 6 says "'public body' means a municipality, local board, conservation authority...." So you're proposing the conservation authorities be in in motion 7.

I would like to move forward. From our perspective, we're ready to vote against the amendment. We're prepared for that.

Mr. Bill Walker: Point of order: With all due respect to you, Mr. Chair, Mr. Flagal was directing me, and I wasn't totally finished. You've kind of jumped over to the government without me being able to finish—

The Vice-Chair (Mr. John Vanthof): I believe that there are still other people on the list who would like to speak as well.

Mr. Bill Walker: Great, as long as he's not going to call something and I don't get to finalize my comment, that would be greatly appreciated.

Ms. Dipika Damerla: Chair?

The Vice-Chair (Mr. John Vanthof): Ms. Damerla.

Ms. Dipika Damerla: I just feel like the opposition has made their point. There is some validity to it, but I also think that we've addressed it by saying there are enough checks and balances within the existing legislation that their fears are unfounded. The opposition also supported the same definition under the Lake Simcoe act, so I'm not sure how that concern has—if they were okay then, I'm hopeful that they'd be okay now.

Let's just put it to a vote because they're restating the same case over and over again. There's nothing new coming out. We've all heard—and he's given the best answer possible, so I think there has been enough debate. It's already 10 o'clock, and we haven't even voted on a single amendment. We haven't even voted on the subamendment, never mind getting to the original amendment.

I just beg your indulgence: If you're not coming up with anything new in this discussion, perhaps it's time to just put it to a vote and see how the chips fall.

The Vice-Chair (Mr. John Vanthof): What I'm going to do is, we're going to go back to Mr. Walker. If I continue to hear repetition, we'll ask if it's the committee's will to vote.

Mr. Bill Walker: Thank you, Mr. Chair. Ms. Damerla, once again, you're trying to tell me how to do my job, and I don't appreciate that. I will take as long in this room or any room I'm in to respect and protect my constituents. When you tell me to hurry along, it's not going to fly. All right? Let's just get that straight on the record today.

What we're going to do is, until I'm clear in my mind what a definition is before I have to vote, I'll ask anybody at any time. That's my prerogative; that's my due diligence. I will always do that. So thank you very much.

With all due respect, the Green Energy Act has a lot of people in my riding worried about how you steamroll things through, and we will continue to ask questions—

The Vice-Chair (Mr. John Vanthof): Excuse me, Mr. Walker. If you'd like to continue your questions, I think what we're looking for here is quality questions, quality comments and not repetitiveness. As long as you've got new questions, we're open to new questions. We're not open to repeating the same issue over and over.

Mr. Bill Walker: Thank you, Mr. Chair. When I ask a point of clarification, I don't deem that to be repetitive. I deem that to be a point of clarification so that I fully understand the issue at hand.

Mr. Flagal, I do appreciate where you're coming from. You did ask me a question, but because of all this, I kind of forget that question. Could you just tell me what the question was?

Mr. Monte Kwinter: If you can't remember your own question, why are you asking it?

Mr. Bill Walker: Careful, Monte. Let's remember last week.

Mr. James Flagal: I apologize. I'm not sure if I—

Mr. Bill Walker: I think you were trying to get us to clarity.

Mr. James Flagal: Yes. I was saying that, when I listened to your comments, what I heard was there was concern about certain substantive portions of the bill that were being expressed through this definition of "public body." So what I just needed to do, as this committee goes through the bill, is to talk about what those concerns are. Then, just as I did with Mr. Harris, I could basically say, "There's this section here, and this is what it says. This is why, if that was the perception, I'm hoping the section shows you that's not the case." But there may be a time when you say, "Okay, well, I have a concern about this," and I'll say, "Yes, the bill does say this in this section here—not in 'public body,' but in this section here. So if you have a problem with that, you would need to amend this section."

That's all I'm saying. I find there are a lot of matters being raised through this definition of "public body" which are more appropriate being discussed in later sections; that's all. Like the role of council, as an example. You raised the role of council and I thought, "Well, the council is not really involved in the definition." That's all. That was my comment and question.

Mr. Bill Walker: You then would suggest that our current amendment would not permit what you're trying to achieve?

Mr. James Flagal: There's a motion that amends this motion. The motion that was there before was trying to achieve, in that clause (a), that conservation authority, municipality and, yes, local board, be included, but not local board as defined in the Northern Services Boards Act.

Mr. Bill Walker: Thank you for that clarity.

Mr. James Flagal: Thank you.

The Vice-Chair (Mr. John Vanthof): Mr. Harris? I hope it's something new.

Mr. Michael Harris: No, we'll move on. We'll vote if you guys want. Let's do it.

The Vice-Chair (Mr. John Vanthof): Is the room ready to vote?

Ms. Dipika Damerla: Yes.

The Vice-Chair (Mr. John Vanthof): All those in favour of—

Mr. Phil McNeely: Chair, we're talking about the amendment?

The Vice-Chair (Mr. John Vanthof): The amendment, yes. Would you like me to read the amendment again to clarify?

Mr. Phil McNeely: Yes.

The Vice-Chair (Mr. John Vanthof): Okay. I'll read the amendment before the vote.

Moved by Mr. Harris: I move that the motion be amended by striking out clause (a) in the definition of "public body" and substituting the following:

"(a) a municipality or a local services board within the meaning of the Northern Services Boards Act;"

All those in favour? All those opposed? The motion is defeated.

Mr. Michael Harris: Chair? I'll be putting forward another subamendment then, if you don't mind. I think it will clarify our discussion from the previous one.

The Vice-Chair (Mr. John Vanthof): We'll have to have a recess so everyone can—

Mr. Michael Harris: Well, I can read it in first.

The Vice-Chair (Mr. John Vanthof): Okay.

Mr. Michael Harris: I'd like to put forward a subamendment. I move that the motion be amended by striking out clause (a) and substituting the following:

"(a) a municipality, conservation authority, a local board or a local services board within the meaning of the Northern Services Boards Act;"

The Vice-Chair (Mr. John Vanthof): Okay. I'll call for a short recess so this can be distributed.

The committee recessed from 1001 to 1007.

The Vice-Chair (Mr. John Vanthof): Does everyone have a copy? We're resuming debate. Does everyone have a copy of the motion?

Mr. Michael Harris: Should I read it—

The Vice-Chair (Mr. John Vanthof): Yes, I would like—the floor back to Mr. Harris. He's here.

Mr. Michael Harris: I'll reread the amendment.

I move that the motion be amended by striking out clause (a) and substituting the following:

"(a) a municipality, conservation authority, a local board or a local services board within the meaning of the Northern Services Boards Act."

I'll just explain this amendment, which I think is very conciliatory in terms of adding back in the conservation authorities. As Mr. Flagal brought up, the reason why local boards should be in—we just believe that those local services boards should be clearly defined as per the Northern Services Boards Act.

I hope the government will see us trying to work together to properly define this. Again, the following motions will likely then be pulled because of this. I hope that they see the goodwill that we're trying to put forward here. And I think it was through good, thorough debate that we brought up—on both sides. Mr. Flagal brought up some legitimate concerns, as did we. That's why we've got this amendment brought forward, and I hope we can carry on.

The Vice-Chair (Mr. John Vanthof): Further comments? Is the room ready to vote? Would you like me to

reread the motion, to make sure you know what we're voting on?

It's a motion moved by Mr. Harris:

I move that the motion be amended by striking out clause (a) and substituting the following:

"(a) A municipality, conservation authority, a local board, or a local services board within the meaning of the Northern Services Boards Act."

All those in favour? I believe it's unanimous. Carried.

Mr. Michael Harris: I have another subamendment. Chair?

The Vice-Chair (Mr. John Vanthof): Another amendment?

Mr. Michael Harris: Yes, I do.

The Vice-Chair (Mr. John Vanthof): Please read it into the record.

Mr. Michael Harris: I move that the motion be amended by striking out:

"(b) a ministry, board, commission or agency of the government of Ontario; or

"(c) a body that has been prescribed by the regulations or an official of such body;"

I'll table that with you and then distribute it to the committee. When we come back, I'll explain why I'm putting forward this amendment.

The Vice-Chair (Mr. John Vanthof): Once again, we'll have a recess.

The committee recessed from 1009 to 1017

The Vice-Chair (Mr. John Vanthof): We would like to resume. The floor is yours, Mr. Harris, to reintroduce your motion.

Mr. Michael Harris: I move that the motion be amended by striking out clauses (b) and (c).

I think it was clear that we modified the last amendment we put forward. We were trying to be conciliatory; we co-operated on this one. However, we adamantly have a huge concern with those other two items, and basically this subamendment removes "ministries, boards and commissions," as well as "bodies and officials prescribed by regulation" from the definition of a public body.

Our rationale, really, in moving this amendment is to ensure that local decision-makers and even local scientists at conservation authorities play a leadership role, not the bureaucrats in Toronto—no offence.

Look, we don't need more provincial agencies, boards or commissions telling local decision-makers how to run their communities. We've seen that far too often. This clause really opens the door for bigger government bureaucracy and excessive new red tape burden for municipalities. We do not need the Liberal government creating or empowering new provincial bodies through legislation to tie local decision-makers' hands with red tape.

Therefore, we have put forward that motion or amendment to strike those clauses (b) and (c) out. I know that my colleagues will want to reiterate the importance of doing so. There are far too many examples in our communities already. Local decision-making ability, using the expertise of those local scientists—again, working together, we changed things around to include local boards. We've clearly defined local services boards and we hope that the government will work with us to make sure that's clear going forward.

The Vice-Chair (Mr. John Vanthof): Thank you. Mr. Schein?

Mr. Jonah Schein: Thank you, Chair. I'm conscious of the time and that both the government and the Conservatives have prioritized other legislation to be discussed in this committee going forward, and that we're not getting through this really important legislation here. So I'm going to ask that this committee write a letter to the House leaders to meet in the intersession next week. I've got a motion that I'm ready to pass around, if I can. I'd like written letter from—

The Vice-Chair (Mr. John Vanthof): Mr. Schein, we're in the middle of clause-by-clause. If I could ask if you could make that request right before we adjourn.

Mr. Jonah Schein: As long as we have time, Mr. Chair. Sure. I just want to make sure that happens. Thank you.

Mr. Michael Harris: For the record, we don't want to see procedural things when we're going through clause-by-clause.

The Vice-Chair (Mr. John Vanthof): Further debate? Mr. Walker.

Mr. Bill Walker: Yes. I think what we're—and we've said this all the way through: We really are concerned—and we hear this every day on various issues in the government from our local municipal politicians, our local ratepayers, taxpayers, constituents and the people who we are elected to serve—about how oftentimes, legislation is created here in Toronto by bureaucrats, and I give all due reverence and respect to them, who may not appreciate or understand the ability of that implementation phase. We at the local level have to increase taxes to be able to do it because the government typically doesn't offer any funds to do the implementation side. The source water protection act is one of those ones that I believe has been circulating for three or four years and has never been brought out for implementation. The fear from every one of my local municipalities is, what's the cost going to be to implement it locally? So it's designed somewhere else, there's great theory and great ideology, but at the end of the day, it's the practicality of who implements and how much can we afford to implement.

In all fairness, the spin of it is, "You don't protect the environment," "You don't care about the environment." Well, that's not the case at all. Who else would care about the environment but the people who live there and have to worry about the water? We live in the farming communities. We're creating the food that you all consume.

Interjection.

Mr. Bill Walker: Absolutely. The best stewards are our farmers our there, yet they're coming to me every day of the week, saying, "Look, I'm really worried about where this legislation from Toronto is coming from

because they don't have an idea of how we're going to implement. They don't bring us any funds, so how do I bear that?" Farmers are being asked to do it out of their own budget, to do work that the government is implying. That's why this guardians' council really concerns me, that they could have that much power to say, "You shall"—it's a directive—and the local municipality is left holding the bag. That whole sense of this is why we've been pushing back and making sure that we understand what the legislation is truly saying. It's why we want clear, definitive terms, so we know exactly what is being implied as opposed to, "Yes, just trust us on this one," and at the end of the day we get a bill that's going to come out and say, "Now you're doing this," and people go, "Holy smokes. Who is even there to protect us?"

That's why, Ms. Damerla, I actually push back very hard on you when you say things like we're stalling and we're not rushing this through. Well, no, I won't do that, because there are very significant concerns. I'll go back to the Green Energy Act. It has been the most vitriolic issue in my riding since the day prior to me getting elected. It was a big election topic and it continues to be because you have usurped local democracy. You've taken the rights of local, elected politicians to make decisions based on their riding. There are 80-plus municipalities that have said, "We're non-willing hosts." But right now, a Green Energy Act that was developed in a very similar process to this, I believe, if it ever came to committee, has taken that right. They've stripped out the Municipal Act rights of councils.

This is very concerning. It's very discerning for all of us to ensure what's going on. I believe my colleague has been very clear that we've been trying to be conciliatory. We're trying to understand first and foremost, then be conciliatory. We did get the last amendment through as a unanimous vote, I believe, Mr. Chair, so I think that was a good thing. But at this point, we have to be very diligent and ensure that there's not going to be another layer of bureaucracy, there's not going to be another group formed that can come in through the side door and usurp that to add more red tape and regulation—and most concerning is the ability to implement. At the end of the day, the local people pay the freight. The government, I don't believe, is prepared, with these types of bills, to bring money to the table to allow the implementation. It's going to fall back to local taxpayers. In my riding, a very small base of constituents is going to be forced to pay for something they may not even be in agreement with. So it's very similar to that Green Energy Act, hence why we're being so cautious and diligent in our efforts to ensure exactly what the legislation will say. We will continue to ask for clarity. At the end of the day, we want to make sure that these amendments are going to actually serve the people we're all sent here to serve.

The Vice-Chair (Mr. John Vanthof): Thank you. If I may, Mr. Walker, we only have a moment left. I would like to return to Mr. Schein for—

Interjection.

The Vice-Chair (Mr. John Vanthof): Stop clause-by-clause.

Mr. Michael Harris: Chair, we cannot stop clause-by-clause for a procedural item.

The Vice-Chair (Mr. John Vanthof): If you hold a second, we will—

Interjection.

The Vice-Chair (Mr. John Vanthof): We're done.

Mr. Jonah Schein: We're not going to meet in the interim?

Mr. Bill Walker: Are we adjourned, Mr. Chair?

The Vice-Chair (Mr. John Vanthof): Yes, we're adjourned.

The committee adjourned at 1025.

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ISSN 1180-4319

Legislative Assembly of Ontario

Second Session, 40th Parliament

Assemblée législative de l'Ontario

Deuxième session, 40e législature

Official Report of Debates (Hansard)

Wednesday 19 March 2014

Journal des débats (Hansard)

Mercredi 19 mars 2014

Standing Committee on Regulations and Private Bills

Comité permanent des règlements et des projets de loi d'intérêt privé

Prompt Payment Act, 2014

Loi de 2014 sur les paiements rapides

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111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario

Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 19 March 2014

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Mercredi 19 mars 2014

The committee met at 0900 in committee room 1.

PROMPT PAYMENT ACT, 2014
LOI DE 2014 SUR LES PAIEMENTS RAPIDES

Consideration of the following bill:

Bill 69, An Act respecting payments made under contracts and subcontracts in the construction industry / Projet de loi 69, Loi concernant les paiements effectués aux termes de contrats et de contrats de sous-traitance dans l'industrie de la construction.

The Vice-Chair (Mr. John Vanthof): The Standing Committee on Regulations and Private Bills will now come to order. Good morning, everybody. We're here for public hearings on Bill 69, An Act respecting payments made under contracts and subcontracts in the construction industry. Please note that written submissions received on this bill are on your desks. Just before, we've allotted four minutes for each presentation and six minutes for questions. If the committee is in agreement, we'll allow two minutes per party. Is everyone okay with that? Thank you.

SURETY ASSOCIATION OF CANADA

The Vice-Chair (Mr. John Vanthof): I would like to call our first presenter, the Surety Association of Canada. I would ask you, sir, to please give your name for Hansard. Once again, as I explained, you have four minutes for your presentation and six minutes for questions. When you have about a minute left, I'll give you a sign for your presentation and we'll go from there.

Mr. Steve Ness: A trap door. Thank you, Mr. Chairman. My name is Steve Ness. I'm the president of the Surety Association of Canada. Good morning to the committee members.

Just to tell you a little bit about who we are, we're the national trade advocacy association for the writers of surety bonds across the country. Surety bonds are guarantee instruments that provide financial protection to owners and trades and suppliers to the construction industry. We do that by two instruments: a performance bond, which protects the owners in the event that a contractor should fail from financial loss; and a labour and material payment bond, which protects subtrades from non-payment in the event of failure. I think in your handout you'll see specimen copies of each of those instruments.

Off the top, I want to say that the Surety Association of Canada is very supportive of the principles behind Bill 69. Obviously, this goes right to our heart. We're people who guarantee construction performance and we have a vested interest in seeing that our contractor clients get paid. The most common cause of contractor default is insolvency, often due to cash flow issues.

We do, however, have some serious issues with Bill 69 as it's currently drafted, a lot by what it doesn't say as what it does. We think that in its current form it could possibly hurt the very people it's trying to protect. There are a lot of issues, and I'm going to leave it to some of our later presenters to elaborate on a lot of the construction-related issues, but I'm going to go at one today which is near and dear to our heart. It has the potential to undermine the surety and contractor relationship and provide real problems.

The bill is silent on what happens should a contractor exercise their rights under section 8 to either suspend or terminate the contract. We think that further clarification is required to prevent a rash of claims coming at our performance bonds.

Interestingly, in the consulting draft that was prepared prior to the legislation being tabled, there was a provision in there to require that a contractor exercising their rights to terminate or suspend could not be deemed in breach of their contract. That was not present in the legislation as it's tabled. While there is a loose provision in there to say that the contract is so amended to incorporate the terms of the act, that's, in fact, cold comfort. We can see a scenario developing where, under the performance bond, you could have a claim as a result of simply exercising your rights.

The other thing I'm going to leave you with is that right now we have an instrument that goes to protect trades and suppliers. It's called a labour and material payment bond, which is required by law in the United States, in all 50 states and nation-wide. Perhaps some thought should be given to bringing that up here in a more prescriptive form. We're going to suggest that perhaps this bill should be taken back, reconsidered and reworked to bring in more protections and make it a lot clearer than it currently is.

With that, I'll thank the committee. I'm happy to answer any questions.

The Vice-Chair (Mr. John Vanthof): Thank you very much, sir. I'd like to start this question round with the Progressive Conservatives.

Mr. Monte McNaughton: Great. Thank you very much for coming this morning. Just two quick questions: any reason why that one provision was taken out, in your opinion? Secondly, was there enough consultation done on this bill?

Mr. Steve Ness: To answer to the first question, I wish I knew. I'm puzzled that it was left out. It seems like such an obvious requirement. So the answer to that, I don't know.

Do I think enough consultation was provided? No. I think it should have been submitted to a wider audience and given far more extensive consideration by all stakeholder parties.

Mr. Monte McNaughton: Was your group consulted prior to this bill?

Mr. Steve Ness: Through the back door, kind of, yes. We sort of peeked in through the keyhole and found out what was going on. We work closely, of course, with the Ontario general contractors and NTCCC, so we were able to keep abreast of what was going on.

Mr. Monte McNaughton: Thanks.

The Vice-Chair (Mr. John Vanthof): Third party?

Mr. Percy Hatfield: Thank you. I'm not familiar with—I think you mentioned it was an American labour and material containment bond. Is that was it was?

Mr. Steve Ness: A labour and material payment bond.

Mr. Percy Hatfield: Payment bond. Are there any in Canada?

Mr. Steve Ness: Oh, yes, they are required in Canada, but it's simply by requirement of the owner. Most public bodies do require them, but not all do. Those that don't, trades are very vulnerable to failure to pay by the general.

Mr. Percy Hatfield: Right. You say there was not enough consultation on this bill, from your perspective. From your perspective, if this bill, as you have suggested, is taken back, reconsidered and made to work, do you see any repercussions to anybody, if that was to take place at this point?

Mr. Steve Ness: That's an open-ended question. I mean, it depends on what came out of the chute at the end. I'll just go back to what I said off the top, that, in principle, we're very supportive of prompt payment. We think that that would grease the wheels and do wonders for construction in the province of Ontario and, really, across the country. Because I know other provinces are watching us closely here.

Mr. Percy Hatfield: So, I mean, you're supportive of it?

Mr. Steve Ness: We're supportive of the principles, certainly.

Mr. Percy Hatfield: Of the principles, but you have serious concerns?

Mr. Steve Ness: Yes, sir.

Mr. Percy Hatfield: I guess the question is, if this was put on a back burner and given more consultation, more input, do you see, at the end result, it being a better bill as opposed to just a delay of a bill?

Mr. Steve Ness: Oh, yes. Absolutely, yes. I think this bill could be much better, and with broader consultation, I think that would almost certainly be the case.

Mr. Percy Hatfield: Thank you.

The Vice-Chair (Mr. John Vanthof): Liberal Party, please.

Mr. Steven Del Duca: Thanks, Mr. Chair. Thank you, Mr. Ness, for being here this morning and for your presentation, and also for the written submission, which, I think, members of the committee will have a chance to review in greater detail.

Just a quick question, actually, following up a little bit on what Mr. Hatfield asked a second ago. I'm looking at the written submission. The labour and materials payment bond that you were referencing in your oral presentation—can you perhaps describe for the committee why, and you might have alluded to it in your answer to Mr. Hatfield, that isn't necessarily the tool that is providing adequate protection for everyone throughout the payment chain in the industry currently? Is there a particular reason that's not the case?

Mr. Steve Ness: I don't think that's quite what I said. It's not in universal use here.

Mr. Steven Del Duca: So it's the lack of—

Mr. Steve Ness: Yes, exactly.

Mr. Steven Del Duca: —universal usage, in your estimation, that—

Mr. Steve Ness: There are some jurisdictions that require it; others don't. It's a very, very effective tool for giving that "sleep comfortably" feeling to trades and suppliers, knowing that they're going to get paid for work done and materials supplied.

Mr. Steven Del Duca: Do you think the lack of—let's call it that—universal usage or broader usage of that particular tool is one of the reasons that there seems to be an increasing problem with late payment in the industry?

Mr. Steve Ness: Possibly.

Mr. Steven Del Duca: Great. Thanks very much.

The Vice-Chair (Mr. John Vanthof): Thank you very much, Mr. Ness, for your presentation.

Mr. Steve Ness: Thank you.

CITY OF MISSISSAUGA

The Vice-Chair (Mr. John Vanthof): Our next presenter will be from the city of Mississauga. As you're coming to the mike—

Mr. Steven Del Duca: Chair, just for clarification, will the start of the questions rotate or will it always be the official—

The Vice-Chair (Mr. John Vanthof): The start will rotate.

Mr. Steven Del Duca: Okay. Thank you.

The Vice-Chair (Mr. John Vanthof): Thank you. You'll have four minutes for your presentation, and six

minutes has been allotted for questions. Could I ask you to give your names for Hansard? Then you can begin.

Ms. Hazel McCallion: Myself, Hazel McCallion; Mary Ellen Bench, our solicitor, and—

Ms. Wendy Law: Wendy Law, deputy city solicitor.

The Vice-Chair (Mr. John Vanthof): Welcome.

0910

Ms. Hazel McCallion: Thank you very much for the opportunity to be here and to deal with Bill 69 and to express our grave concerns about this bill, not that we are opposed to the principle of contractors and subcontractors being paid promptly for work that they do, but the payment has to be justified. In fact, the city of Mississauga justifies all payment of all bills, because we represent the taxpayers to protect them from payment of bills, expense statements etc.—which sometimes the province and federal governments don't do. But we do it in the city of Mississauga.

Consequently, unfortunately, despite its impact, the bill has been put together with no consultation with all those involved. That is unacceptable today. In fact, I'm surprised that it would be allowed to get to the point it has without consultation. Therefore, it is the city of Mississauga's position that the bill should be brought back to a government bill, with the provincial government engaging in full consultation with the whole industry, and to do your homework, which is what all governments should do before they pass any legislation—do their homework, consult with those that are affected and then make a decision. That has not been done in this case. Therefore, our solicitor has prepared a detailed presentation, which will be submitted, on the impacts of this legislation on the city.

Secondly, we have the MOU process of the province of Ontario that any bill that goes to the Legislature that affects municipalities, we are consulted with as an MOU. This has not been done, and AMO will present that position.

So all I can say, as mayor, is to do your homework before you pass legislation. Think about it very seriously, and involve the people who are affected. This has wide impact on many aspects and certainly on the municipalities. Small contractors, you know, sure, they should be paid properly, but we must justify the cheque that we issue at the city level. My gosh, the taxpayers expect that of us and expect it of you as a provincial government.

This bill does not allow that to happen. Therefore, I strongly recommend that it go back as a government bill—and that the present government believes in consultation. They would never have appointed—the only province, Ontario—the Liberal government has given us the right to deal with legislation that affects municipalities before it's passed. No other province has that right, and we're delighted with it as AMO, and it works, that we have an opportunity to say how it affects us.

Therefore, my position is, as mayor of the city of the Mississauga that has dealt with many contracts, I can assure you that if this bill passes the way it is, it will have serious implications on the municipalities of Ontario. Therefore, I recommend that you do your homework before this passes. We are not at all opposed to small contractors getting paid promptly for the work they do—no question about it. Who would ever disagree with that? But there's got to be a process, and a proper process, that is followed to justify the payment of a bill by a municipality or by the province or by the federal government. This bill does not allow that.

The Vice-Chair (Mr. John Vanthof): There's time for questions. Thank you very much for your presentation. We will start the questions with the NDP.

Mr. Percy Hatfield: Thank you, Mr. Chair. Welcome, Mayor McCallion. It's nice to see you again.

Perhaps my first question would be to—is it Wendy, the lawyer? Has Mississauga taken a legal position on the fact that if the MOU process has not been filed, whether this committee discussion is even in order or out of order?

Ms. Hazel McCallion: Well, no. Just because I phone the province and say I don't like what's going on doesn't mean they have to listen, that they have to follow my request. The point is, they must give the opportunity to be heard, and this bill has not given us the opportunity to be heard.

Mr. Percy Hatfield: I understand that, Mayor. I'm just thinking if the legislation is there and that the MOU process is to be followed, and it hasn't been followed because municipalities weren't consulted on this private member's bill—

Ms. Hazel McCallion: Well, it should go—the MOU process allows the departments to come before the MOU and tell us what legislation they are proposing.

Mr. Percy Hatfield: Yes, I understand that.

Ms. Hazel McCallion: And we consult. We tell them what the impacts are on the municipality.

Mr. Percy Hatfield: That's on government bills as opposed to private members' bills.

Ms. Hazel McCallion: Well, no. In fact, I've raised the question that private members' bills should come to the MOU. Private members' bills are very dangerous—I have to say—because not enough homework is done on them.

Mr. Percy Hatfield: Okay.

Ms. Hazel McCallion: It's somebody who has a vision, or has a position, that has not been fully analyzed, and very little consultation. That's the problem with private members' bills.

Mr. Percy Hatfield: I guess my final question—

The Vice-Chair (Mr. John Vanthof): You're out of time.

Mr. Percy Hatfield: I'm out of time? All right, thank you.

The Vice-Chair (Mr. John Vanthof): To the government, please.

Mr. Steven Del Duca: Thank you, Mayor McCallion. Thanks for being here today—it's great to see you—and for your presentation, and obviously the written package that I know members of the committee will be eager to delve into.

A couple of things: Again, not to make this sound too repetitious, but I'm going to follow up a tiny bit on what the member from the NDP said a second ago. Just to clarify for everyone who's here in the room, my understanding of the AMO MOU is that that, quite rightly, is the opportunity for the government to officially engage with the municipal sector on government initiatives. This is, of course—we just referenced it a second ago and you did as well—a private member's bill, which, to my understanding, doesn't necessarily trigger the guarantees or provisions in the AMO MOU, but your point about the importance of engaging those who are impacted is well taken.

The question I had—it's in a more, sort of, technical nature—for the city of Mississauga, understanding that we all hold as a very important thing for governments to do at all levels: to guarantee and protect taxpayers' interests. I'm just wondering from the standpoint of construction costs for the city of Mississauga and for other municipalities, has there been analysis done around the notion of how increasingly endemic late payment in the system is actually inflating your construction costs? Because general contractors and subtrades and their subs and their suppliers have to build in the notion of financing late payment. I'm just wondering if you factor that in or if you've heard of any of that kind of calculation or analysis that's being done.

Ms. Hazel McCallion: I'm going to have Mary Ellen answer that because she's thoroughly familiar with all the contracts.

Ms. Mary Ellen Bench: We have canvassed staff in the city of Mississauga in terms of preparing for this hearing, and actually our record is very good. Late payment is not an issue in Mississauga once progress has been certified.

Mr. Steven Del Duca: If I can just clarify the question: What I mean, though, is that—

The Vice-Chair (Mr. John Vanthof): Mr. Del Duca, you've run out the clock with your question.

Mr. Steven Del Duca: Okay—perhaps with some of the others from the municipal sector.

Thank you very much for being here today.

The Vice-Chair (Mr. John Vanthof): Thank you very much for your—

Interjection.

The Vice-Chair (Mr. John Vanthof): Sorry about that. To the PC Party, please. It was not intentional.

Mr. Monte McNaughton: No, no. Thank you very much. We'll be quick, Mayor.

This is, in my understanding, the second time that this bill has come forward. I believe it was introduced originally, prior to my election in October 2011, by Mr. Levac. I was wondering if Mississauga took a position four or five years ago, or whenever this was actually first introduced.

Ms. Mary Ellen Bench: When that bill was introduced, it never made it through the system to a point where we felt it was appropriate to take a position. We were not consulted at that time either.

Mr. Monte McNaughton: So, as a council, do you wait until bills get to the committee stage before you reach out? I'm just curious—

Ms. Hazel McCallion: Well, why would we do it? It didn't get to any status. We don't waste our time in Mississauga. We're not overstaffed in Mississauga.

Mr. Monte McNaughton: I'm just curious. I mean, this is the second time the bill has come forward. Mr. Del Duca, obviously, introduced it this time, but I was just curious if you had a position the first time that this came forward four years ago or so.

Ms. Hazel McCallion: We watch all bills that go to the House and we watch all private members' bills that go to the House. It's hard to keep up with the private members' bills.

Mr. Monte McNaughton: Agreed.

Ms. Hazel McCallion: I am concerned, as mayor of the city of Mississauga for 36 years, that private members' bills are very dangerous because there's not enough homework done on them, and they can slip through easily, especially in an election year.

Mr. Monte McNaughton: Agreed.

Ms. Hazel McCallion: So I really am concerned.

Mr. Monte McNaughton: And there are lots of issues, obviously, raised with this bill and around that consultation piece specifically. Thank you.

The Vice-Chair (Mr. John Vanthof): Thank you very much for your presentation.

Ms. Hazel McCallion: Thank you very much for the opportunity.

0920

ASSOCIATION OF MUNICIPALITIES OF ONTARIO

The Vice-Chair (Mr. John Vanthof): Our next presenters will be from the Association of Municipalities of Ontario. I'll ask you to, please, give your names for Hansard, and you have four minutes for your presentation, six minutes for questions, and I will give you a sign when you have one minute left for your presentation.

Mr. Russ Powers: Thank you, Mr. Chair. Good morning, everyone. My name is Russ Powers. I'm a councillor in the city of Hamilton, and I'm the president of the Association of Municipalities of Ontario. On my right is Monika Turner, our director of policy for the Association of Municipalities of Ontario.

As my allotted time is short, I am leaving a more detailed analysis of the bill and its challenges along with my remarks.

You have already heard from my colleague and AMO member, Her Worship Hazel McCallion, the mayor of Mississauga, regarding her city's concerns with Bill 69. They are shared by many.

When this bill was introduced, AMO said to its sponsor and others in the Legislature that the bill is so poorly conceived and drafted that the best advice we

could offer was to exempt municipal governments from it.

Other associations and groups do not support it either. In fact, you're hearing that members of the construction industry see significant flaws within the bill.

Yes, there is prompt payment legislation in other jurisdictions, but this bill goes so far beyond those pieces of legislation that it actually causes problems. We believe this bill is seeking to remedy a challenge born out of the structure of the construction industry by tying the hands of the owners and contractors. We don't believe this is the right response.

Let me be clear: This bill will fundamentally affect your provincial government's, our municipal governments' and the broader public sector's ability to exercise due diligence over public funds.

Of late, the provincial Legislature has been seized by the need for strong diligence in the expenditure of its public funds. That is why there is some surprise that this bill has progressed through the Legislature to this point.

The bill is fundamentally flawed. I suspect that you will feel overwhelmed by the scope and scale of the proposed amendments presented to you—and to do it all within a three-hour period. Amending a bill is, in some ways, a cherry-picking venture: Will you land on the right amendment? Solve the right problem? Achieve balance? Will amendments to one section create problems in others? While I believe this committee wants to do a good job, I ask you: Might your few hours of review here create legislation that could include a wealth of unintended consequences? You have a heavy task. The committee will need to consider what will happen if you don't get this bill right.

After the witnesses have been heard and the bill is examined clause by clause, this committee votes on the bill as a whole and whether to report it to the House. Our best advice is, don't report it back. This is the request made in a recent letter to the party leaders from a variety of groups, to which AMO was a signatory. You have a copy of it.

Let the stakeholders sit down to address the issue of fair and timely pay for workers on construction sites, a principle that is very, very worthy of our consideration. Let the stakeholders discuss the problems and solutions. This has never happened. This bill was landed out of the blue. There was no true consultation with AMO when Bill 69 was drafted, and I would venture to say not with others in the broader public sector.

I would hope that each of you will agree that, after listening to all the stakeholders, this legislation should not proceed, that this committee should report to the Legislature that its advice is that the stakeholders undertake a coordinated review of payment issues.

Give us the time to work together to identify the problems and solutions. We all have an obligation to create public policy that works, that provides an appropriate balance of oversight of public funds, quality work and timely payment. Thank you for the time.

The Vice-Chair (Mr. John Vanthof): Thank you very much for your presentation. We'll start our questions with the government.

Mr. Steven Del Duca: Thank you, Mr. Chair. Thanks, Mr. Powers, for being here. Good to see you. Again, as I've said earlier with the other witnesses so far, thanks for the written and the oral submission.

I guess with my limited time to ask, I want to follow up and clarify what I was trying to get at with Mayor McCallion on my second question—

Mr. Russ Powers: Certainly.

Mr. Steven Del Duca: —and perhaps I didn't explain it clearly. What I was trying to get at was, has the municipal sector contemplated that as general contractors and subcontractors and the subs, the subs, the suppliers etc., the rest of that payment chain that exists in the construction industry, comes forward to bid work for municipalities or any other construction owner in the province—my understanding is that, over time, as late payment becomes increasingly—I'm not singling out any particular municipality, but, generally speaking, across the industry—becomes more and more of a pressing problem, I find, from what I understand from the analysis that I was able to do, that more and more other participants in the system further down the payment chain from owners build into their pricing the notion that, from a financing standpoint, they have to carry a disproportionate amount of what I'll call the "payment risk" in the system. From my perspective, this implies that your construction costs, perhaps in a more hidden way, are actually inflated.

I'm wondering if AMO or any other of your municipal participants have done any kind of analysis around how much that might be inflating costs for all taxpayers across the province of Ontario?

Mr. Russ Powers: From an AMO perspective, we have not done a broad analysis. I am aware of a couple of the municipalities, one of which is my own, that have done the analysis with regard to the impact. On the basis of performance requirements, our delivery and our payments are deemed to be on time and don't adversely impact the contractors that do the municipal jobs associated with our communities.

I'm sure any business would put in a provision clause in order to ensure that they have bridging funds for it, but other than a couple of municipalities that I know that have done it, from a broad perspective it has not taken place.

Mr. Steven Del Duca: Great. If I can really quickly, because you are—

The Vice-Chair (Mr. John Vanthof): No, no, no. You've already passed your question.

To the PCs, please.

Mr. Bill Walker: Thank you very much for your presentation this morning. Can you share with me whether any of the municipalities within your membership asked you as an association to explore this matter, that it truly is a concern?

Mr. Russ Powers: Very much so. I think you'll find, in a package that's been provided to you, letters from a

substantial number of municipalities asking that the—the principles espoused in this bill are worthy of consideration, worthy of fair and, I'm going to say, advance discussions. You'll find in a package that's provided to you over on the table here substantial numbers of concerns raised by municipalities throughout the province.

Mr. Bill Walker: So I think you're consistent with Mayor McCallion and the first presenter that there was no consultation with this. It was rushed through. It's being expedited—and I'll maybe use the word "steamrolled"—which we, again, can't really understand. Everybody supports in principle the reality of prompt payment and fair payment terms.

My question was more, though, actually not in respect to the bill being introduced. Were any of your municipalities asking you, prior to this bill being introduced, to find legislation that would protect them for prompt payment? Was this a burning issue for municipalities?

Mr. Russ Powers: Could I ask Ms. Turner to respond to that question?

Ms. Monika Turner: No, it's not an issue that's come up from a policy perspective, in the sense of prompt payments being a major public policy issue.

Mr. Bill Walker: Thank you. Jane?

Mrs. Jane McKenna: So ultimately, if all of the amendments aren't made that you clearly want to have done, what will be so catastrophic if things don't get changed and amendments aren't made?

Ms. Monika Turner: It's the combination of all the different parts. One of the things you've heard is that the progress reports are based on time, not on milestones; also, the concept that municipalities must certify that the work has been done and it's been properly done. Again, the provisions don't allow for it. Even down to the level of—it says there will be an application for progress reports, but it doesn't define what an application is, and often applications may not have the right documentation. There may be issues with it.

Basically, the time frames are so dear, plus there's a reverse onus that if you do not respond within 10 days, you're deemed to have paid it. You can't manage public funds prudently within those time frames, without being able to certify that the work's been done to spec.

The Vice-Chair (Mr. John Vanthof): Thank you.

Mr. Russ Powers: Our written submission on that provides answers.

The Vice-Chair (Mr. John Vanthof): The third party, please.

Mr. Percy Hatfield: Thank you, Mr. Chair. Hi, guys.

Ms. Monika Turner: Hi.

Mr. Percy Hatfield: We heard from Mississauga that late payment is not an issue in Mississauga once progress is certified. On page 2 of your written submission, you raised the grave concern about estimates and contractors wanting to be paid once a reasonable estimate of work has been done. Could you just expand on your concern over that issue?

Mr. Russ Powers: I'll let Ms. Turner start and then I'll jump in.

0930

Ms. Monika Turner: Basically, again, we're looking at it from the point of the scrutiny of public funds and also what an auditor would look at: that if you pay for something that actually hasn't happened, you end up then doing many reconciliations, but one could be said not to be doing prudent management of public funds. You need to be able to say, "The work has been done. It's been done to spec. Therefore, prompt payment follows from there." That's the concern with estimates.

We do understand—and again, municipal governments can speak to this in more detail—that there may be provisions in a contract, that they can order things and, with that purpose, there can be money flowed. But that's within a contractual situation.

Mr. Russ Powers: The other thing is—and just like yourself, if you were making renovations to your own home, where it's something that's being certified by the building inspectors of the various municipalities, you really can't proceed to the next steps until there has been a sign-off on that. The larger projects are deemed to be similar in nature. The timelines or the draws for certified progress make all kinds of sense, but the requirement to pay based on estimates or materials provided or ordered or delivered—whatever the case is—causes some really major problems for justification of payment.

The Vice-Chair (Mr. John Vanthof): Thank you very much for your presentation.

CITY OF TORONTO

The Vice-Chair (Mr. John Vanthof): Our next presenters will be from the city of Toronto. As you're making your way to the mike, just for time constraints, you have up to four minutes for your presentation, and six minutes has been allotted for questions from committee members. If I could please ask you to state your names for Hansard.

Ms. Anna Kinastowski: Thank you, and good morning. My name is Anna Kinastowski. I'm the city solicitor for the city of Toronto. I have with me Michael D'Andrea, who is an engineer and the executive director of engineering and construction services for the city, as well as Tanya Litzenberger, a solicitor in our offices. We have submitted written submissions to you and they're in blue, so they should be standing out on your desk.

The proposed legislation that we're dealing with will transform how payments are made in the construction industry, yet, as you've heard, unbelievably, there has been no consultation with public sector owner groups in the drafting of it.

The city of Toronto is a large user of construction services. We spent about $1.2 billion on construction in 2013, on almost 700 projects, everything from Union Station to water pumping stations, to roads, bridges and replacing water mains. Yet, as such a large owner of these kinds of projects, we had no input into this bill.

Ms. Litzenberger has taken a very careful review of the bill, and we are astounded by the impact that it's

going to have on taxpayers. Mayor McCallion made that point: We're here to protect the taxpayers. We suspect that the province and some of your construction arms will also have these same concerns, so we do support the presentations that have come before us.

The onerous requirements and the stringent timelines in the bill are going to be virtually impossible for us to meet and could lead to work stoppages. Allowing for deemed approvals of deficient payment applications is irresponsible to our taxpayers, and I think Mayor McCallion made the point clearly: It's going to add costs to the city.

We've taken a great number of steps over the last years to be more efficient, to contain our costs and to deal with these issues in a better manner. This will be a step backwards.

The bill is unbalanced, in favour of the trades, so that a subcontractor may be able to terminate work if we are one day late in making the payment to a contractor, even if the subcontractor has been paid. Yet when work is deficient, we can't retain anything from the progress payments to contractors. We've detailed these issues in our written submissions.

We've attempted to provide you with amendments to the bill, but it was no easy task. They're attached, with reasons for them, but we really feel that no version of the bill, as submitted, should be enacted.

The city of Toronto, as others, supports prompt payment in the construction industry, and balanced legislation that will achieve these goals—and I stress, balanced legislation. Bill 69 has so many issues and negative consequences, not all of which we know at this point, that we feel it simply cannot proceed. I'm sure you'll hear various positions. Various groups have different positions.

So given the amount of opposition to this bill from the different sectors, excluding the trades, we feel as well that the committee should put the brakes on this legislation and engage the various industry stakeholders for a proper discussion and consultation on prompt payment legislation that we all support.

Our final submission is that the bill cannot be enacted even with the amendments as it currently stands. Thank you.

The Vice-Chair (Mr. John Vanthof): Thank you very much. Our first question's from the official opposition.

Mr. Monte McNaughton: I'm just curious: Has the city of Toronto looked at other prompt payment legislation in other jurisdictions, such as the UK, Australia, the EU?

Ms. Tanya Litzenberger: Yes, we have looked at some of the legislation—not in depth. Certainly I know that when I was looking at the state of Michigan's legislation, there is an ability for payment to be certified and then there are timelines to make that payment that are much greater than the timelines in Bill 69.

Mr. Monte McNaughton: Okay. We have no further questions.

The Vice-Chair (Mr. John Vanthof): Thank you. The third party.

Mr. Percy Hatfield: Just to clarify in your written executive summary—first of all, thank you for being here and taking the time to make your views known—you write that "contractors can terminate on seven days' notice if payment is late; subcontractors can terminate immediately, even if they are paid, if the owner is one day late in making a payment to the contractor; erroneous payment applications may be 'deemed approved' and become payable...." In your due diligence to your taxpayers in Toronto, when you saw this, what was your initial reaction to it?

Ms. Anna Kinastowski: Our initial reaction was that it would be very unfair to our taxpayers. We have processes in place. We have put a lot of systems in place to ensure that the invoices that are being paid are proper. We take steps to ensure that those payments are made as promptly as possible, but there is a limit to how much one can do.

Mr. Percy Hatfield: Has there been a problem in Toronto of your municipality not paying in a timely fashion?

Mr. Michael D'Andrea: The comment that I'd like to make is perhaps a point of clarification in terms of the definition of a late payment. What you will often find in construction projects is there is some discussion with the contractor in regard to completion of tasks and the project as it unfolds at different stages. So there may be some discussion, some dialogue back and forth between our project manager and the contractor to confirm the progress certificate that has been submitted, both in terms of our unit rate contracts, as well as on our lump sum. I would not deem that to be a delay. It is simply a point of clarification. As the city solicitor has noted and the mayor of Mississauga has noted, we have a due diligence with respect to our taxpayers, and we need to make sure that we are certifying payment for goods and services that are received.

Mr. Percy Hatfield: Do you have a reputation for paying your bills on time or—

The Vice-Chair (Mr. John Vanthof): Excuse me. Your time is up.

Ms. Anna Kinastowski: We hope we do.

The Vice-Chair (Mr. John Vanthof): You do.

Ms. Anna Kinastowski: We hope that we do.

The Vice-Chair (Mr. John Vanthof): The government, please.

Mr. Steven Del Duca: Thanks, Mr. Chair. I don't have a lot a lot of time, so I guess really quickly—thank you for being here. Thank you for continuing the discussion. It's great to see you again.

I just wonder, earlier in questioning that was posed to another witness, the member from Lambton–Kent–Middlesex asked the question about—given that this is the second time a bill of this nature has been introduced in the Legislature, the last being in the fall of 2011, three-plus years ago; given that this bill was first introduced and achieved second reading passage in May 2013; and

given that, by your own admission, the city of Toronto is such a large public sector construction owner that takes such an interest in what is happening in the construction industry, I'm just curious if you could explain to us, have you ever voluntarily reached out to the other components of the construction industry, like the general contractors, like the subtrades, to work on solutions around some of these problems?

I haven't had a chance to read your written submission just yet. I don't know if you have suggestions in there around what a different kind of prompt payment bill might look like, but I am curious to know if the city of Toronto, being such a large municipality, has voluntarily undertaken to help solve some of these problems?

Ms. Tanya Litzenberger: As far as I know, we have not been approached to—

Mr. Steven Del Duca: No, but I meant proactively. I meant proactively if you've done it—in four years, proactively, if you've done that.

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Ms. Tanya Litzenberger: We have not proactively, but we are open to becoming engaged in discussions and consultation, which is desperately needed on this legislation.

Mr. Steven Del Duca: Terrific. Thank you very much for being here.

The Vice-Chair (Mr. John Vanthof): Thank you very much for your presentation.

ONTARIO ASSOCIATION OF SCHOOL BUSINESS OFFICIALS

The Vice-Chair (Mr. John Vanthof): Our next presenters will be from the Ontario Association of School Business Officials. As you make your way up to the mike, you have four minutes for your presentation, and six minutes has been allotted for questions from committee members. If you could please, before you start your presentation, state your names for Hansard.

Mr. Glenn Clarke: Glenn Clarke and Tim Robins.

We would like to thank you for allowing us to address the concerns with the Prompt Payment Act as they relate to public sector construction contracts and, more specifically, school boards. We are speaking on behalf of five school board associations, including: OASBO, OCSTA, OPSBA, Association des conseils scolaires des écoles publiques de l'Ontario and Association franco-ontarienne des conseils scolaires catholiques. Together, these groups serve over 1.8 million students in 4,921 schools. This is not a small sector in the construction industry, and over the past 10 years the Ministry of Education has allocated $12.2 billion for school building projects.

Paying invoices on time for approved construction work is a good practice for school boards as it is an essential component of a successful construction project. However, the terms under the proposed Prompt Payment Act would have a negative impact on long-established construction processes in Ontario.

The first area of concern is with the technical language in the bill, which will create problems with the standard construction contracts in the Construction Lien Act. The existing school board construction contracts allow boards to better manage school construction projects and protect the capital expenditures in a manner that ultimately benefits the taxpayers and the students of Ontario.

Concerns with the terms in the bill are detailed in the OASBO reports—which are included in your packages there—including the one entitled Ontario's Bill 69, Prompt Payment Act, 2013: A Failed Framework. These reports, together, have been submitted as noted. Specifically, the unreasonable terms in the bill would impact school board construction projects with added construction costs, payment for incomplete work, project delays and late school openings. In the end, the act would not provide best value to the Ontario taxpayers.

Secondly, in the past two years the contractors have been developing the framework for this bill, yet there's been no public consultation with Ontario's public and private owners of construction projects. The contractors need to discuss their payment concerns to allow the owner representatives to understand the issues and consider the many positive solutions, one of which is for the general contractors to voluntarily make revisions to their contracts with the subcontractors. This positive action is contrasted with the legislation, which will only add to the challenges in managing projects, resulting in substantial legal costs.

The requirement for open consultation was acknowledged recently by the contractors' association, where it is reported that they are now calling for the government to put the brakes on the Prompt Payment Act. The contractors are now proposing a series of discussions with the owners. This step should have occurred well prior to the introduction of the bill.

Thirdly, there is a lot of misrepresentation and misinformation that has been introduced, and owners have not had an opportunity to respond to this incorrect messaging until now. For example, it's been reported that the US, UK and Ireland all have prompt payment acts, so we need one too. Yes, these countries do have this legislation; however, the terms are very different. For example, they don't have language about paying contractors for future work. Bill 69 mirrors some of these other acts in name alone. Industry research also shows that the concerns are between the general contractors and subcontractors, and not necessarily with the owners.

In summary, Bill 69, if enacted in its current format, would impose a number of significant obligations with school board construction projects by allowing for overpayments to contractors; not enabling boards to retain the required funds to complete deficiencies; adding significantly to the cost of building schools; and delaying school construction openings, with direct implications to the learning environments of our students.

The school boards' associations recommend that the Prompt Payment Act not be approved. It's also proposed that the measures stipulated in the bill be considered in a

consultative and cooperative process by the many parties to achieve a workable solution. This recommendation is also supported by the construction associations.

Bill 69 is like a building with a flawed foundation. A coat of paint, like the wordsmithing in the act, may make the building look nice, but it will still be structurally unsound. The basic premises of the Prompt Payment Act need to go back to the drawing board and be re-engineered.

The Vice-Chair (Mr. John Vanthof): Thank you, sir. Third party: first question.

Mr. Percy Hatfield: Thank you, Mr. Chair. I don't know if the sky is falling or if at some point we'll get a balance from the other side of the argument, but everything we've heard so far indicates that, boy, this is problematic for us all.

I think Mr. Del Duca has asked several delegations before: In the previous incarnation of this bill, has your association been involved? Have you provided input in the past? How did you become aware of this? Is this your first time jumping into this, or have you been involved before?

Mr. Glenn Clarke: This is the first time that we have been involved in reviewing this. I was not aware of the earlier Prompt Payment Act, nor was our group, but once we became aware of it, we had some significant concerns that were raised, and we offered to meet with various parties to talk about the concerns with the bill.

Mr. Percy Hatfield: And obviously you are of the opinion, as are others so far this morning, that this bill should be taken away for due diligence, proper consultation, with a broader scope?

Mr. Tim Robins: Absolutely.

Mr. Percy Hatfield: Thank you.

The Vice-Chair (Mr. John Vanthof): The government.

Mr. Steven Del Duca: Good to see you again. From a clarification standpoint, if I could acknowledge as well, for the committee and for those in the room, Mr. Clarke and the rest of the folks from the school boards' associations did proactively reach out to me quite some time ago to begin a dialogue about this particular bill. So I want to thank you for taking that very proactive step, actually a number of months ago, to come and see me and talk to me about your concerns.

I guess because so far this morning we've heard largely from the municipal sector, and though you're also representing a public sector construction owner, I just wanted to have a follow-up to the follow-up that I started by asking Mayor McCallion and then the folks from AMO around how late payment risk, I guess is the best way for me to phrase it, that exists in the system may be inadvertently or almost invisibly below your own radar, inflating construction costs for school boards and therefore for taxpayers, ratepayers, whatever the case may be. Have you noticed that? Have you contemplated that, and do you have any suggestions for how, going forward, we might work towards reducing that late payment risk for all participants, therefore reducing your construction costs and improving the overall effectiveness of the system?

Mr. Tim Robins: In response to the question, it hasn't been an issue for school boards. Based on our current contracts around CCDC and the application of our project teams in certifying payment, the importance of a project schedule for schools is very, very important, as funding from the Ministry of Education through the province comes in a timely fashion for growth for schools. So we are very, very succinct in terms of our planning of our schools, the construction of our schools, the certification of payments in our schools and, most importantly, the opening of the schools in time, as the students arrive at school. Late payments for the school board sector has not been a factor for us, and based on our current CCDC documents and our certification of payments, all the way through the construction process—

Mr. Steven Del Duca: I don't know how much time before the Chair drops the gavel on me here.

The Vice-Chair (Mr. John Vanthof): Very little.

Mr. Steven Del Duca: It may be that I'm not asking the question clearly enough, so I apologize.

I'm not suggesting that I know for certain that a particular school board is a late payer per se. What I'm saying is, when a general contractor comes forward to bid on a school and when the subtrades bid to do the work on that particular school, they are currently contemplating late payment as an assumption in the industry. Because it exists and is endemic, they're building it into their construction costs, they're passing it to you, and you're passing it to us. So my—

The Vice-Chair (Mr. John Vanthof): Thank you.

Mr. Glenn Clarke: It shouldn't be an issue for school boards, because we have 40-day payment.

Mr. Steven Del Duca: Okay. Thank you.

The Vice-Chair (Mr. John Vanthof): The official opposition.

Mr. Monte McNaughton: Actually, I'd like you to answer his question.

Mr. Glenn Clarke: In our construction contracts, we have a 40-day payment period, and it may be longer than—no, it certainly is longer than the 20-day period that's proposed in the act, but the 40-day period gives us enough room and time to work through the processes so that we do make payment for the work that has been completed properly and certified, and that's one of the challenges in the act. It doesn't even talk about the requirement for delivery of a proper progress draw. It could be incorrect, it may not have the required documents attached, and the values could be incorrect.

Mr. Monte McNaughton: Just to follow up, I asked the city of Toronto this and I'd like to ask you this. I think you mentioned it in your opening remarks, about other prompt payment legislation in other jurisdictions. We know that that legislation is quite different. Would you support prompt payment legislation that is similar to Australia, the UK, Ireland?

Mr. Glenn Clarke: Well, it's interesting, because they vary significantly. For instance, in Ireland, they've

got a 45-day payment period. New York has a 75-day payment for road construction. In, I believe, New Zealand they've got legislation banning "pay when paid" clauses, which is important. So there's a lot of terminology in those acts that, yes, could be considered.

Mr. Monte McNaughton: But is your organization opposed to prompt payment legislation in general, or are you supportive of a sensible prompt payment legislation act?

Mr. Glenn Clarke: I think the first thing we need to consider is what are the issues out in the industry, because the research has shown that the issues are not with the owners generally, but between the general contractors and the subs. Through that process, as owners, we'd like to understand what the concerns are and then have dialogue and then make a decision following that.

Mr. Monte McNaughton: Okay. You answered that exactly like some cabinet ministers in question period—

Interjection.

Mr. Monte McNaughton: Yes, I'm not going to get a yes or no, I'm assuming, from you on this. But I do know that there is legislation that is quite different in other jurisdictions that maybe should be looked at.

The Vice-Chair (Mr. John Vanthof): Thank you very much for your presentation.

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ELECTRICAL CONTRACTORS ASSOCIATION OF ONTARIO

The Vice-Chair (Mr. John Vanthof): Our next presenters will be the Electrical Contractors Association of Ontario. Just to reiterate, you have four minutes for your presentation and six minutes for questions. If you could please state your names for Hansard before your presentation, and welcome.

Mr. Eryl Roberts: Good morning. My name is Eryl Roberts. I'm the executive vice-president of the Electrical Contractors Association of Ontario. I want to thank you for the opportunity to present the views of the ECAO regarding this important and groundbreaking legislation.

ECAO represents 850 electrical and line contractors, mostly small to medium-sized family-owned businesses, employing over 15,000 electricians and apprentices, all of whom are eagerly awaiting passage of legislation which will ensure that they get paid on time and for the work they expertly perform.

I want to highlight two fundamental rules that the Prompt Payment Act deals with. The first is the golden rule, not the one you learned in kindergarten: The guy with the gold makes the rules. The construction payment system is organized in a top-down pyramid, with owners on top, followed by the general contractor, and then the base of the pyramid is made up of trade contractors who directly perform and pay for 80% of the average project. There is a fundamental power imbalance as a result of the real-time costs that they have, such as labour and materials, being at the bottom of the pyramid, while the funds to reimburse those costs are way up at the top. Furthermore, the funds have to pass through two potential choke points: one between the owner and the general, and the second between the general and the trade contractors. There may be more, depending on how many subcontracting relations there are.

One function of the Prompt Payment Act is to fix this and empower contractors and subcontractors as payees with certain rights, so as to improve their chances of being paid on time for work properly performed. Really, it's only about work properly performed. I've heard a lot to the contrary today already.

The second rule, and it's a basic economic rule that doesn't seem to work in the municipal sector: Time is money. There is a chronic and worsening culture of late payment in construction. I'm going to give you a real-life example of the sheer magnitude of the problem. Let me give you some ECAO labour finance costs, and this is just labour. On average, ECAO contractors are waiting 70 days to get paid. ECAO contractors are financing labour costs in the amount of $250 million on a regular, rotating line of credit, and that's just labour. If you want to add material into that, you can double it. We're at half a billion dollars, and that's just ECAO contractors. I can count every man hour that they perform, and I know what each one costs. There's no compensation for such huge and illicit borrowings.

When contractors are not paid on time, they are saddled with unauthorized, involuntary, capacity-sucking debt not of their own making. Their ability to bid for more work and employ more workers is severely reduced. Along with loss of capacity and over-extension comes greater and potentially fatal business risk: a project that goes bad, interest rates that go up, the economy might falter, and any number of other things that are beyond your control, like a municipality doesn't pay.

In recent years, there has been a massive, and I mean massive, downloading of financing for construction projects to the trade contractors who actually perform the work. We're at a tipping point. I've given you the numbers just for my trade. Something has to be done, and that something is to pass Bill 69. The ECAO's vision for Bill 69 is to simply be paid on time for the work that we've performed—

The Vice-Chair (Mr. John Vanthof): Excuse me, sir. You're going into the question time, so you'll have less time for questions, so if you could wrap it up very quickly.

Mr. Eryl Roberts: Just to wrap it up, we want to free up $100 million of capacity by reducing the age of receivables and protecting those 850 small to-medium-sized contractors.

The Vice-Chair (Mr. John Vanthof): Thank you. The governing party.

Mrs. Donna H. Cansfield: Thank you very much for your presentation. I look forward to a more thorough review of what you've presented to us.

Like most things, there's balance in this world, and I want to say thank you. Having spent 15 years on the school board, I'm well aware of the challenges with

small business folks—who are, by the way, the heart and soul of this province. If it wasn't for small businesses, we wouldn't have quite the economic engine that we do.

There's that famous saying, "Houston, we have a problem." We have a problem. I don't think there's anybody in this room who doesn't realize we have a real challenge here. We've identified a way to be able to address it. It doesn't mean it's absolutely perfect in its format, but the fact is, it needs to be addressed. So from your perspective, what is it you think we can do in terms of next steps?

Mr. Eryl Roberts: I think there has to be a review of the legitimate possible amendments that have been suggested, but I mean legitimate ones, not that are going to gut the principle of the bill and, furthermore, not be simply a delay tactic.

Mrs. Donna H. Cansfield: Thank you. Would you be prepared to put forward any types of those amendments that you could see being an improvement to this bill?

Mr. Eryl Roberts: Yes. There's a series of them. They'll be presented by later supporting speakers on the 26th.

Mrs. Donna H. Cansfield: Right Thank you very much.

The Vice-Chair (Mr. John Vanthof): Thank you. The official opposition.

Mr. Bill Walker: Thank you very much for the presentation. Certainly some of the earlier speakers were talking about the concerns of pretty stringent deadlines, timelines, or perhaps not realistic timelines. Would you just give some comment? Is there room for flexibility in there? The last presenter, I think, said a 45-day period as opposed to a 20-day.

Mr. Eryl Roberts: Look, Bill 69 was not conceived as a vehicle for exposing municipal inefficiencies or for correcting them. If it happens to do that, that's a good thing for the taxpayers of the province.

The timelines that are in the bill are actually taken from standard construction documents, CCDC 2 and CCA 1, subcontract. They're pretty standard in the industry and would be applicable to 99% of the work. I don't see that they're stringent at all.

Mr. Bill Walker: So you generally would be pleased if this bill went through right now the way it is, in its current form, or do you believe that there actually is a better process, that we slow things down and do full due diligence and involve all stakeholders?

Mr. Eryl Roberts: I think the number of amendments that the bill needs to make it stronger and more effective and easier to implement are not that many.

Mr. Bill Walker: So you would be supportive—

Mr. Eryl Roberts: So I think this process is the appropriate process to do it. We have about another three weeks. I can talk to stakeholders along with Mr. Del Duca. I don't think the bill is unfixable. As a matter of fact, it's in pretty good shape right now.

Mr. Bill Walker: Have you done anything proactive with some of the other countries that have enacted legislation? Would you suggest that there's one or others out there that are already better than this that we could compare with?

Mr. Eryl Roberts: Well, there are plenty of pieces of legislation in other jurisdictions that I would love to import here. Somebody—

Mr. Bill Walker: Specific to this bill.

Mr. Eryl Roberts: The banning of contingency payments is a great thing. I tried to get it into the consensus document, but I failed.

The Vice-Chair (Mr. John Vanthof): Thank you. The third party.

Mr. Percy Hatfield: Thank you, Mr. Chair. Welcome, Mr. Roberts. You've been here all morning. Was there anything that you heard from Mississauga or AMO or Toronto that you take great issue with and disagree with?

Mr. Eryl Roberts: Well, I generally disagree with the fact that anyone in the construction chain can't exercise their responsibilities with respect to moving the payments along and with sufficient rapidity to meet the contractual requirements. However, if we need a year or so for the municipalities to get together and sort it out for implementation, that would work for me.

It's interesting, the city of Toronto—their transportation department has, for probably more than a decade, had an electronic billing system for maintenance. My contractors said to tell this committee, if I get an opportunity to say so, that that's a very good and efficient system. They just key it in. Somebody comes and checks to make sure that that intersection has been fixed, and they get paid in 30 days. Why it has to be isolated to one little department of the overall scheme is beyond me. But you can do it. It can be done. It's not impossible.

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Mr. Percy Hatfield: Just for clarification, did you say a year or so for municipalities to work out their differences with this bill would be satisfactory to you?

Mr. Eryl Roberts: As long as it did not exempt them at the end. I think exemption would be the totally wrong thing to do. That would be a slap to the taxpayers of Ontario.

Mr. Percy Hatfield: Thank you.

The Vice-Chair (Mr. John Vanthof): Thank you very much for your presentation.

Mr. Eryl Roberts: Thank you.

ONTARIO HOME BUILDERS' ASSOCIATION

The Vice-Chair (Mr. John Vanthof): Our next presenters will be the Ontario Home Builders' Association. As you are making your way to the mike, you'll have four minutes for your presentation and six minutes for questions. I will give you a one-minute warning. If you could, state your name for Hansard before you start your presentation.

Mr. Joe Vaccaro: Good morning; my name is Joe Vaccaro.

Mr. Stephen Hamilton: Stephen Hamilton.

Mr. Joe Vaccaro: I'm here on behalf of the Ontario Home Builders' Association. My name is Joe Vaccaro; I serve as the chief executive officer. Joining me is Stephen Hamilton, manager of government relations. It is our pleasure today to speak to you on Bill 69, the Prompt Payment Act. The Ontario Home Builders' Association is the provincial advocacy group for a network of 31 local associations from Niagara Falls to North Bay, Windsor to Ottawa, and London to Toronto.

As has been noted in debates at Queen's Park, OHBA first raised our concerns with Bill 69 in an email to all MPPs on May 16. Specifically, we highlighted our concerns with the right-to-information provision in part III. In addition to this item, we believe that Bill 69 takes away important and necessary contract flexibility for construction parties to negotiate specific terms for projects. Our deputation today will speak to a couple of the larger issues about the legislation.

But first I want to recognize the work of MPP Steven Del Duca. He is a strong supporter of construction contractors and the construction sector as a whole. His work on this file has started an important conversation within the construction industry. Although OHBA does not support this particular bill, we do support the principle of contractors being paid on time for quality work that they have completed.

OHBA will be submitting additional comments on the bill, but at this point, we want to focus on two aspects of the legislation. Part III of the bill deals with the right to information, which allows a contractor to "at any time request in writing that the owner provide updated financial information, and the owner shall promptly provide the information...." We strongly believe that this provision should be retracted. This provision is unnecessary and an unprecedented intrusion into private enterprise by other private companies. The residential sector involves both public and private companies, with complicated management and ownership structures. The ability for any firm providing construction services on behalf of an owner to request at any time the owner's financial information represents an intrusive level of disclosure that we are not aware existing in North America.

In addition, the right appears to define all contracting relationships, including home renovation projects. Mandating that a homeowner must provide a contractor their financial background when completing a deck or basement renovation seems completely unreasonable. Part 3 states: "a contractor may at any time request in writing that the owner provide updated financial information." What does this mean in this context? Would this mean audited financial statements? Tax returns? Current bank accounts? The legislation is unclear.

The flow of information may mean that potentially hundreds of parties would have access to the owner-developer's financial information. The legislation provides that all subcontractors on a site, where there is often two degrees of separation or more, have a right to this information. How can the owner have confidence that this information will not be abused, considering the sheer number of subcontractors on a project who would have access to this information?

The second area I want to focus on is the administrative burden this would have on millions of small contracts in Ontario. There are numerous short-term contracts of small value that would be captured by 31-day payment terms. In the owner's reporting requirements in the legislation, if a homeowner is having their house painted or a carpenter is trimming a home in six weeks, the payment terms they would be subjected to are unreasonable. Not all construction projects are built over several years. Unfortunately, this legislation literally treats building a backyard shed on par with building a hospital.

In order to address this, OHBA recommends that only construction contracts valued over $5 million should be captured. In addition, there should be an exemption for smaller residential projects, such as custom homes or small development projects. This is similar to how prompt payment works in Massachusetts, where there is both a dollar threshold and a residential exemption in place.

We haven't even touched on the issue of warranty provisions. A builder does have a responsibility to provide warranty coverage up to seven years. It's important that there is some means for the builder and the homeowner to secure a warranty bond. This legislation does not provide that opportunity.

Again, these items do not represent all of our concerns. I want to note that OHB was a signatory to a letter dated March 17, along with a broad cross-section of both private and public owners and stakeholders, outlining our concerns. Although OHB will be providing amendments to the act, the result of these are of such significant scope that it would essentially serve to rewrite the legislation. This is not a criticism—

The Vice-Chair (Mr. John Vanthof): Excuse me. Your time is up, so we'll allow more time for questions.

Go ahead, official opposition.

Mr. Monte McNaughton: Great. Well, thank you very much, Joe, and thanks to all your members in the Ontario Home Builders' Association for raising some of these issues. I know you were the first ones sort of out of the gate on this bill.

Because this is the first time I believe I've heard of this, I just wondered about this warranty coverage. I didn't quite catch what you were saying. How would this bill impact the seven-year—

Mr. Joe Vaccaro: Well, I'll give you two examples from our two membership groups. If you're a builder in the province of Ontario, you need to register with Tarion. Tarion has a mandatory warranty program that a builder must sign on to. Some of that warranty extends out for as far as seven years.

Through the construction process, whether it's a condominium or a low-rise home, whatever it may be, the reality is that not only are you completing that work, that work needs to be tested and secured and, more important-

ly, you as a builder are responsible, based on the warranty coverage, for up to one year, two years or seven years—on a structural issue, maybe seven years.

For a condominium builder, it's in their interest to secure some sort of a warranty bond against the contractor who did the foundation work on that building to ensure that if in that seven-year period there is a warranty issue, there's an opportunity for redress. It's an opportunity to deal with that issue.

For a homeowner, it's much the same situation. If you're hiring a renovator to organize and plan a renovation of your basement, to finish that basement, that renovator is going to provide that homeowner some sort of a warranty. In the case of RenoMark, one of our programs, our renovators provide a $2-million warranty. But the reality is that a renovator is organizing other trades and wants to be able to secure warranty bonds with those other trades, so if the foundation that they have rewrapped does leak in a year, there's an opportunity for redress.

Warranty provisions are important, not just for ourselves but also, as you've heard, for the broader public sector construction owners. They need warranty provisions in order to ensure that when these issues come up, they have redress.

I would just end by saying that we are concerned that the private members' process does not provide an opportunity for the kind of dialogue we need on this bill. We are suggesting that any changes to any kind of contract law of this scope need to be made through the appropriate government consultation process before legislation is tabled.

Mr. Monte McNaughton: Thank you.

The Vice-Chair (Mr. John Vanthof): The third party.

Mr. Percy Hatfield: My question was to allow you to finish your written presentation, but I think you just did, did you not?

Mr. Joe Vaccaro: I did.

Mr. Percy Hatfield: Well, sometimes when you write these things, you save the punch for the end, and he didn't get to the punch, but he slipped it in there. It's a left hook, I think.

I guess I was interested more in following up on your financial disclosure argument, that if I hire a renovator to fix up my home, you're suggesting I have to provide him with all of my pertinent financial information, and that information could be shared as it goes down to the electrician, to the plumber, to the bricklayer and so on. Is that what you're suggesting?

Mr. Stephen Hamilton: Yes, I think that's accurate. The legislation just speaks to construction contracts. It doesn't make a distinction between $10-million projects and a $5,000 bathroom renovation. I think it speaks to who is consulted early on in the process. I don't think that type of model really works for the renovation industry.

Mr. Joe Vaccaro: The legislation does provide an opportunity for anyone working on that home renovation to make a request for information, so whether you are the renovator who has the original contract or the person coming and doing the tile work, the legislation does provide a flow of information where you can make that request.

Mr. Percy Hatfield: Thank you.

The Vice-Chair (Mr. John Vanthof): The governing party.

Mr. Steven Del Duca: To both of you, thank you for being here today. I guess also, really, really quickly, thank you for participating in this process. You referenced in your opening remarks the fact that you actually brought forward questions and concerns as early as May 2013, when the bill was first introduced, so thank you for that.

A couple of things by way of clarification: If I understand it correctly, the bill right now, as it relates to the disclosure of information, leaves it to the regulations to define exactly what that would look like, so we don't know for sure at this point in time, in the legislation itself, what it would require at this point. Just so we're clear, some of the things you mentioned as possibilities could only be fully played out by regulations—number one. Number two, we have heard loud and clear about the notion that it's important to have some kind of carve-out for the home renovation sector. I don't think anyone here, certainly on this side, would argue with that concept.

1010

Lastly, going back to the disclosure-of-information piece and the discussion we've already had here today around warranty programs, I'm wondering, for Tarion specifically, can you talk to us a little bit about any disclosure-of-information requirements that exist in that warranty program that perhaps might satisfy some of what's being contemplated in this bill?

Mr. Joe Vaccaro: Sure. Just to your first point about the regulations, we'll scope out exactly how that piece works. You can appreciate how uneasy that makes us, unsure of what that really means. There's a legislative process here. Our view is that the legislative process should provide the security that we are looking for, for anyone in this process, whether it's a homeowner or a developer, on this right to information. Our view of the world is that if you're going to do something through a legislative process, this is an area where you should be doing something. Our view is simply to retract it, but amendments are necessary in the legislation, not to be left to regulation.

On the Tarion side, builders, as they annually file and renew with Tarion, have a responsibility to provide financial information, along with also providing—so that information includes how they plan to continue to fulfill their statutory requirements under Tarion for projects that they have built. Do they have the capital? Do they have the resources to deal with those past ones? Furthermore, they also project out their expectation of homebuilding that year. So builder A may say, "I expect to build 500 homes this year," and Tarion will say, "Okay, show me the financial wherewithal you have to actually construct

those homes and provide the servicing warranty required." That's part of the renewal. If Tarion is uncomfortable with those financials, they will restrict the amount of homes that you can build, and every project goes through a similar process to get Tarion-registered.

Mr. Steven Del Duca: Thank you.

The Vice-Chair (Mr. John Vanthof): Thank you very much for your presentation.

Mr. Joe Vaccaro: Thank you.

AECON GROUP INC.

The Vice-Chair (Mr. John Vanthof): Our next presenters will be Aecon Group Inc. As you're coming to the mike, you will have four minutes for your presentation, six minutes for questions. I will give you a one-minute warning, and if you could please state your name for Hansard before you begin your presentation.

Mr. Yonni Fushman: Good morning. My name is Yonni Fushman. I am vice-president and assistant general counsel with Aecon Group Inc. Based here in Toronto, Aecon is the largest publicly traded construction company in Canada, with deep roots in Ontario dating back to our first office in Brantford in 1877. Aecon's work touches every aspect of the construction industry in Ontario, from small home renovations to large infrastructure projects.

I'm here this morning to express Aecon's concerns about Bill 69. Although Aecon supports the principle of prompt payment, we believe that this vehicle, which was drafted without broad industry consultation, will play havoc with the way the entire industry operates, affecting everyone from homeowners conducting renovations to the successful and timely completions of major projects.

First, the act would increase costs, and those costs would be passed on to taxpayers and consumers. Following are a few examples:

Contractors would incur financing costs to pay money to subcontractors that they have not yet received from the owner.

Projects would incur additional bonding costs to replace the security that the act would prohibit.

All contractors and subcontractors would be forced to incur significant administrative costs to implement the vague but onerous notice-of-payment requirements of the act.

Second, the act would result in more litigation and delay. Reflective of the limited consultation process, the act is vague on many points and is not aligned with existing legislation like the Construction Lien Act. Those issues would lead to disputes, costs, delays and a strain on the already overburdened court system.

Also, the act seems almost designed to encourage delays and litigation by compelling contractors to take extreme measures, such as suspension or lien, in order to obtain basic commercial protections.

Third, the act would increase risk, which in turn would increase cost. The most fundamental flaw of Bill 69 is that it incorrectly assumes that rigidly fixing payment on a 30-day cycle would be a panacea for contractors. It ignores the reality that on most large infrastructure projects, including most of the projects procured by Infrastructure Ontario, payment is typically not tied to monthly payment cycles but to completion of milestones or even the completion of the entire project. Milestone payments allow the owner to mitigate risk by tying payment to completion of a measurable part of the work, such as the power plant turning on when the switch is flipped or a road opening to traffic. Prohibiting the freedom of sophisticated parties to enter into payment arrangements that are tailored to the risk profile of the project will make projects riskier and therefore more expensive, reduce the abilities of governments to revitalize their infrastructure, squeeze small businesses out of the market, and cost jobs.

We have heard references made by the proponents of Bill 69 to prompt payment legislation in other jurisdictions, the suggestion being that this type of legislation works in other places and it will work here too. However, after examining prompt payment statutes in the US, the UK and Australia, we have concluded that they are different than Bill 69 in a number of very important ways. Those acts continue to allow parties to agree to payment terms, unlike Bill 69's rigid approach to a monthly payment cycle. Those acts were products of long periods of consultation with all stakeholders, whereas this morning is the first real opportunity that many key stakeholders have had to make their views known. Those acts differentiate between private and public projects, whereas Bill 69 indiscriminately applies to every single construction project, large or small, public or private.

For those reasons, Aecon's view is that this private member's bill must not be passed in its current form. The government should appoint an advisory panel to consult with stakeholders, prepare draft legislation that harmonizes with the Construction Lien Act and incorporates the best practices of international legislation, and then circulate the draft bill widely for comment. The process that led to the adoption of the Construction Lien Act in 1983 is a useful model.

Thank you.

The Vice-Chair (Mr. John Vanthof): Thank you very much for your presentation. We will start the rotation with the third party.

Mr. Percy Hatfield: Thank you for coming in, Yonni. Have you met specifically with Mr. Del Duca, who has presented this private member's bill? What has been his reaction to your suggestion that they appoint an advisory panel to consult with the stakeholders on a wider basis?

Mr. Yonni Fushman: I have not met personally with Mr. Del Duca. I know that the Ontario General Contractors Association has, and some of my peers at other construction companies have, but Aecon has not directly met with him.

Mr. Percy Hatfield: Did your company get involved in the prior version of this bill, when it was Mr. Levac's?

Mr. Yonni Fushman: No; I think we have the same response as an earlier speaker, that we were aware of that bill, we were tracking it, but it never really got far enough for us to engage directly on it.

Mr. Percy Hatfield: Have you consulted with other large contractors? You're the biggest. Do the other large groups share your views?

Mr. Yonni Fushman: Yes. Some of them are in the room, and I'm sure they're nodding vigorously.

Mr. Percy Hatfield: Thank you.

The Vice-Chair (Mr. John Vanthof): To the government.

Mr. Steven Del Duca: Thanks very much, Mr. Chair. I don't take it personally that we haven't had a chance to meet directly—

Mr. Yonni Fushman: It's a pleasure.

Mr. Steven Del Duca: —regarding this bill or any other matter, and I do appreciate you being here today and some of the—if you'll excuse the pun—constructive comments that you've made with respect to Bill 69.

I don't have a question per se in this regard. I just wanted to say that I think it's good that you're here. It's good also that you're keeping an open mind, recognizing that given that some of the relevant legislation that impacts the construction industry hasn't been updated in more than a generation and given that the construction industry has evolved in such a complex way, it does make sense for legislators to work with the industry to move towards making sure that the system is functioning at an optimal level for all participants in the system. So really just a word of thanks for you being here today.

Mr. Yonni Fushman: Thanks.

The Vice-Chair (Mr. John Vanthof): The official opposition.

Mr. Monte McNaughton: I echo those comments as well. Also I'm glad, in your last paragraph here, that you were the first presenter today that recommended that this legislation should be harmonized with the Construction Lien Act. That was a note that hasn't been brought up before but is definitely duly noted today. Thank you very much for your presentation, and we look forward to working on amendments to this bill and seeing where it goes according to the person who wrote it.

Mr. Yonni Fushman: Thanks for your time.

The Vice-Chair (Mr. John Vanthof): Thank you for your presentation.

That concludes our list of presenters for today. I'd like to thank them all for their time.

I believe it also concludes our business for this meeting, so I would like to call this meeting adjourned.

The committee adjourned at 1018.

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Room 500, West Wing, Legislative Building
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Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario

Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 26 March 2014

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Mercredi 26 mars 2014

The committee met at 0900 in committee room 1.

PROMPT PAYMENT ACT, 2014
LOI DE 2014 SUR LES PAIEMENTS RAPIDES

Consideration of the following bill:

Bill 69, An Act respecting payments made under contracts and subcontracts in the construction industry / Projet de loi 69, Loi concernant les paiements effectués aux termes de contrats et de contrats de sous-traitance dans l'industrie de la construction.

The Chair (Mr. Peter Tabuns): The Standing Committee on Regulations and Private Bills will now come to order. We're here to continue public hearings on Bill 69, An Act respecting payments made under contracts and subcontracts in the construction industry.

ELLISDON CORP.

The Chair (Mr. Peter Tabuns): Our first presenter is EllisDon Corp. Could we have the presenters come forward, please? You have up to four minutes for your presentation. Six minutes have been allocated to the members of the committee for questions. If you'd please introduce yourselves for Hansard.

Ms. Jody Becker: Good morning. I'm Jody Becker, senior vice-president and general counsel with EllisDon.

Mr. Chris Moran: I'm Chris Moran, senior counsel at EllisDon.

The Chair (Mr. Peter Tabuns): Proceed.

Ms. Jody Becker: Good morning. I'm here this morning to express EllisDon's significant concerns with Bill 69.

EllisDon was founded in London, Ontario, in 1951 as a small general contractor. In its 63 years of operations, EllisDon has grown to become one of Canada's greatest success stories. EllisDon achieved this success by developing strong relationships with owners, subcontractors and the thousands of men and women employed on its construction projects.

EllisDon's success has been founded on the belief that good work deserves fair and prompt payment. However, Bill 69, as the proposed delivery of this principle, is, in our view, fundamentally flawed.

Bill 69 sets out a prescriptive framework for making payments without taking into consideration the relative complexity of the project, the commercial needs of the players, or its interaction with existing laws. The bill eliminates the ability of parties to freely contract terms that meet the needs of the particular project.

Some of our key concerns are as follows:

—The bill prohibits milestones and other performance-based payments.

—The bill permits payment applications based on reasonable estimates, resulting in an increased potential for over- or under-certification of work.

—The bill provides for expansive rights to financial information, including in respect of small businesses, sole proprietors and homeowners.

—Contractors and subcontractors who are not being paid promptly are forced to put their projects in jeopardy by suspending or terminating their work.

As heard by this committee, concerns with the bill have been expressed by players across the construction industry. As more scrutiny is received, more concerns are being expressed. While supportive of the principles behind the bill, even its strongest proponents have acknowledged its flaws. The Electrical Contractors Association went so far as to suggest that consultation with municipalities take place over the next year.

The consultative process on the Construction Lien Act is of useful comparison. Broad industry consultation commenced in the late 1970s, resulting in the publication of a discussion paper in November 1980. A formal advisory committee was established in 1981, with the release of a full report in 1982. Following full legislative scrutiny, the act was ultimately passed in 1983. No such consultative process has been implemented for Bill 69.

It remains unclear what the long-term impacts of the bill will be. It is clear, however, that this bill will result in increased disputes, increased litigation and increased costs. The current form of the bill incites parties to dispute the timeliness and quantum of payments. A simple dispute over the amount of a payment would result in the disruption and potential failure of an entire project.

An increase in disputes and litigation can only mean an increase in costs and risks borne by the industry and by taxpayers. Contractors will account for the cost of financing their payments to subcontractors. Increased dis-

putes increase the likelihood of insolvencies, and more insolvencies mean fewer jobs.

As the result of the inability to withhold additional funds as security for performance, owners and contractors will remain beholden to current industry players, making the industry overall less competitive.

For all of these reasons, we at EllisDon are deeply concerned with the bill in its current form and we implore this delegation to reconsider.

The Chair (Mr. Peter Tabuns): Your four minutes are up. Thank you. Nicely timed. The first round of questions: to the government.

Mr. Steven Del Duca: Great. Thanks very much, Mr. Chair.

Thank you for being here this morning and for your presentation. I have one question: Last week, when we did the first round of public hearings—it was likely my fault; I wasn't able to clearly articulate what I was trying to get at with some of my questions, so I'm going to try harder this morning.

You mentioned at the outset that one of the concerns that you have about the bill is this notion that it removes the opportunity for different parties to freely enter into a contract. It does that by design, obviously, and the reason it does that by design is because the risk of late payment continues, from my perspective, to increase in the industry, or at least it's becoming more prevalent. It seems, from most of the conversations I've had, that there is a—I guess I would call it an out-of-balance or unfair bargaining relationship between the people who, up until this point, have tried to enter into contracts so-called freely.

I'm just wondering if you think there is a way, and if you think there is a way—quickly, if you can explain what that way would be around how we can remove that notion of an unfair bargaining relationship.

EllisDon is a large company, a significant company, but as you well know, there are thousands and thousands of others that participate in the construction industry that don't have your size or capacity that are left to the existing contractual frameworks to try and defend themselves, and it's not working for them. So I'm just wondering if you could discuss that for a bit.

Ms. Jody Becker: Sure. EllisDon didn't—

The Chair (Mr. Peter Tabuns): Keep going. You have 30 seconds.

Mr. Steven Del Duca: Sorry. I failed again.

Ms. Jody Becker: EllisDon didn't start as a $3-billion company. It started as a small construction company in London, Ontario. It was able to work with industry players by building relationships. Those relationships continue to exist today. If we didn't treat our subcontractors fairly, they would stop working with us.

In addition to that, the Construction Lien Act already exists to protect payments down the construction pyramid. It provides a greater remedy than exists under Bill 69. It provides the right—

The Chair (Mr. Peter Tabuns): I'm sorry to say that he had two minutes and he used up most of it. So we have to go to the opposition.

Mr. Monte McNaughton: Thank you very much for your presentation. You mentioned the Construction Lien Act, and I was going to ask you about that. Would it be possible for that act to be amended to include the goals of prompt payment?

Ms. Jody Becker: We think it can, with proper consultation. As I was about to say, the Construction Lien Act already provides a greater remedy than Bill 69 does in that it allows parties who haven't been paid to register a claim for lien against the title to the property on which they've performed their services.

That right commences from the first day that any of those parties perform work on the project, and it provides the proper incentive for owners and general contractors to work with those trades over issues of payment in order to have that lien vacated. It also prevents further payments from flowing on that construction project until that payment issue is dealt with, either by paying the lien claim or by registering security in support of that claim.

Mr. Monte McNaughton: Has EllisDon talked to some of their clients about Bill 69 and their views?

Ms. Jody Becker: We have, and what we're hearing from both our public and private owners is that the time frames contemplated for payment under Bill 69 are unworkable. What we suspect will happen is what's already happening in the industry, in that those owners will include in their tender documents privilege clauses that prohibit contractors from bidding their work in the event that there's an ongoing dispute. So if we at EllisDon were to raise a concern under Bill 69, we could effectively be prohibited from bidding further work with that particular owner.

Mr. Monte McNaughton: Thank you very much.

The Chair (Mr. Peter Tabuns): Thank you. Third party?

Mr. Percy Hatfield: Thank you. Hi, Chris. Good morning, Ms. Becker. Thank you for coming in. I keep wondering why we're here, in the sense that some people in the industry don't see a problem, that somebody has seen a problem and that's why it's been raised and the member brought the motion forward. So from your perspective at EllisDon, has there been a problem that you've been made aware of that you want to fix or do you want the status quo?

Ms. Jody Becker: No. As I said at the outset, we're certainly supportive of the principle. We believe everybody who performs good work should be fairly paid.

Mr. Percy Hatfield: But are they being fairly paid now in a prompt fashion?

Ms. Jody Becker: On our projects, they are. I can't speak to what's happening down the line. There are certainly circumstances—we've had one recently where a large mechanical subcontractor became insolvent. Certainly there were issues with payment on that project. However, if we had been bound by the rules under Bill 69, that mechanical subcontractor's trades would not have been paid but for the fact that EllisDon withheld further funds from that mechanical subcontractor in the face of its pending insolvency.

Mr. Percy Hatfield: Thank you.

The Chair (Mr. Peter Tabuns): No further questions?

Mr. Percy Hatfield: No.

The Chair (Mr. Peter Tabuns): Thank you very much.

MANION WILKINS AND ASSOCIATES LTD.

The Chair (Mr. Peter Tabuns): Our next presenter, then, is Manion Wilkins and Associates Ltd. You have up to four minutes to present. There will be six minutes of questions. If you'd introduce yourself for Hansard.

0910

Ms. Lisa Watt: Good morning. My name is Lisa Watt, and I'm from Manion Wilkins and Associates. We are a third party administrator that does benefit and pension plans for Ontario construction industry workers. This presentation is supported by our submission, which I believe will be distributed to each of you. I will summarize it in this presentation.

Prompt payment legislation is supported by most trustees and administrators responsible for the management of benefit and pension plans. Late payment of contributions due to these plans, which we in this industry refer to as delinquency, is costly and disruptive to the benefit plans and directly impacts the employees' entitlement to benefits.

Analysis of 2013 statistics for our Ontario construction trade plans pointed out six things. In that time frame, 19% of the contributions due to the benefit and pension plans were received late; they were delinquent. Hundreds and hundreds of hours were collectively spent by trustees, administrators and their councils dealing not only with trying to obtain these contributions, but with frustrated employees who found that they were without benefit coverage or that benefit coverage was jeopardized because their contributions to their benefit plans and their pension plans were not received on time. In addition, thousands of dollars are being spent on legal and professional fees to collect outstanding contributions.

In the submission, there are two examples, but those two examples provide six points. In one point, we spend $328,000 just in legal fees to collect about $1.5 million in outstanding contributions. Those assets could be better spent providing the benefits that those plans are supposed to provide, as opposed to paying legal expenses.

Pension calculations are often delayed for individuals. In the sample I reviewed, 90 individuals who were retiring had their pensions paid late or had to be rerun because all of their pension contributions had not been received at the time they were retiring. In some instances, their first pension payment was actually delayed because we were waiting for outstanding contributions from their employers.

Vacation pay payouts—these plans have vacation pay—are late and are not received on time by the members. We had an example of an employee who actually died and was out of benefit and did not have life insurance coverage because the company had not paid the contributions into the trust fund on time. With a lot of work and effort, we did have the insurer pay that life insurance claim, but there was a financial hardship for the family as they waited for us to prove to the insurer that the individual should actually have been insured had contributions been received on time.

The Chair (Mr. Peter Tabuns): You have a minute left.

Ms. Lisa Watt: Okay. Hundreds of hours are spent and thousands of dollars are spent in legal fees. People who do not receive their pension on time will receive pension payments without their true contributions. When it's a defined contribution plan, if those pension contributions are not in the bank and earning interest, then those individuals not only don't have those contributions, but they've lost out on interest entitlement in their pension plan.

In summary, prompt payment legislation will reduce benefit plan expenses; will ensure that employees and families receive the benefits they're entitled to, including their pension benefit entitlements and vacation pay; and will support the trust funds and the trustees' fiduciary responsibilities to the members who participate in them.

The Chair (Mr. Peter Tabuns): Thank you. The first question to the opposition.

Mr. Monte McNaughton: I just want to say thanks for presenting today. It was very detailed. We'll take a look at it again, but we don't have any questions.

The Chair (Mr. Peter Tabuns): The third party.

Mr. Percy Hatfield: Thanks for coming in. In your opinion, prompt payment is good. Other presenters have suggested that what has been proposed is so flawed that it's going to be litigated so much—it will be litigated more than the Construction Lien Act. So if you're hoping for prompt payment out of what is on the table, your hopes may be dashed. Do you have an opinion on that train of thought?

Ms. Lisa Watt: In respect of what's happening now, the prompt payment legislation or Bill 69 as it is, or as it is amended by the committee and those involved—if, in its true form, it does cause payment to occur faster to my industry, that's going to help the employees. I don't have an opinion as an administrator with respect to whether or not it will increase or decrease legal fees. My hope is that any legislation will supplement the lien act or what's currently in place to make sure that these members do not suffer any further than they are now.

Mr. Percy Hatfield: Are you at liberty to disclose any of the companies that you know to be routinely delinquent in getting their prompt payments in so that benefits are covered?

Ms. Lisa Watt: I am not at liberty. We deal with trust funds. Those trust funds are managed by boards of trustees, so they would not be at liberty to disclose those, nor do I have any on the top of my head at this point.

Mr. Percy Hatfield: Thank you.

The Chair (Mr. Peter Tabuns): To the government: Mr. Del Duca.

Mr. Steven Del Duca: Thanks very much for your presentation this morning. You may have said this in your comments and I might have missed it: Do you notice that the risk of late payment is affecting the work that you do and the people you serve and whether or not that's an increasing risk? Is it more prevalent now than perhaps five or 10 years ago? Any opinion on that?

Ms. Lisa Watt: I've worked at my firm for 30 years, and I've noticed that—I don't have specific statistics, but I would say that over the last five to six or seven years there is a little more of an incidence to it and there's definitely more work involved. When I first started in this industry, it was easier to collect delinquent contributions, but it is harder and tougher, because of the economy, I would say, for trust funds and for trustees to get employers to meet their obligations.

Mr. Steven Del Duca: Terrific. Thanks very much for being here today.

The Chair (Mr. Peter Tabuns): Thank you for your presentation.

CARPENTERS' DISTRICT COUNCIL OF ONTARIO

The Chair (Mr. Peter Tabuns): Our next presenter is the Carpenters' District Council of Ontario, if you'd come forward. You have up to four minutes for your presentation and, as you've gathered, up to six minutes of questions. If you'd have a seat and introduce yourselves for Hansard.

Mr. Mike Yorke: Hi. Good morning, everyone. My name is Mike Yorke. I'm vice-president of the Carpenters' District Council of Ontario. I also happen to be president of Carpenters' Local 27 of that district council. With me today is Joe Ragusa, who does some legislative work with the carpenters' union.

I'm here today to offer support for the prompt payment bill and to give you the views of the Carpenters' District Council, representing 22,000 men and women across the province.

We're aware that this committee, even this morning, has heard from a number of presenters on both sides of the issue. It will come as no surprise to you that the carpenters' union supports Bill 69 and urges you, and all members of the assembly, to pass this legislation at your earliest possible opportunity.

What may be less obvious to you is why we attach such urgency to the passage of the bill, which, although new for Ontario, will be similar to the legislation that already exists in dozens of other American states and many other countries. Quite frankly, the situation that exists today is undesirable and begs for improvement. In our organization, we see too many grievances, too much litigation and too many people not being paid the money that they're entitled to. Included on that list of people who are not receiving what they're entitled to are our carpenters—our members—our subcontractors and our contractors.

We understand that in an industry such as construction, where over $80 billion of activity takes place each year in this province, there are going to be numerous commercial disputes and there must always be mechanisms in place to deal with those disagreements. We always hope that those disagreements are few and far between.

Bill 69 seeks to correct a somewhat different situation, however. The Prompt Payment Act would put an end to the routine withholding of payments from contractors, subcontractors and their employees. This practice has become far too commonplace, and really needs to end.

One of the things that we at the carpenters' union are very proud of is that we maintain excellent working relationships with our contractors and our management partners, while at the same time looking out for the best interests of our members. We believe that labour, management and even government, working together, will lead to positive results for everyone. We would like to see a legislative requirement on payments so that people who do good work and deserve to be paid receive their money in a timely manner. When people are spending time and money on litigation, obviously, they're not working.

Bill 69 will help in this regard, but even this important step will likely not be enough. On that note, the carpenters' union would like to see the government of Ontario undertake meaningful construction lien reform in the near future. We believe that the time has come to refresh this legislation.

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Finally, I want to put this issue into a perspective that decision-makers at Queen's Park can appreciate. Everyone in and around government understands the importance of investments in infrastructure. Not only does society benefit from new roads, hospitals and schools that are built, the economy benefits—

The Chair (Mr. Peter Tabuns): You have a minute left.

Mr. Mike Yorke: I have a minute.

We buy a lot of lumber, concrete and steel, which is good. That's all to do with infrastructure. The real benefit, the real stimulus, however, comes from the trickling down of government funding and project approval for our contractors, our subcontractors and employees who use that in the broader community.

In conclusion, we would urge you and your colleagues to pass Bill 69 as soon as you can, so that those of us in the construction industry can get on with the work of building our great province and putting that infrastructure spending to good use. Thank you for your consideration.

The Chair (Mr. Peter Tabuns): Thanks. Third party: Mr. Hatfield.

Mr. Percy Hatfield: Thank you, Mr. Chair. Thank you for coming in today. You want this bill passed as soon as possible. Is that without any amendments, just as is?

Mr. Mike Yorke: No. I think that the process of discussion in committee is excellent, and if there are further amendments required, that's an important step in the whole process. The principle of the bill is very positive, and our members really need to see that. As has been

mentioned by a previous speaker at the table, those are things that our members face every day. They're not getting their benefits paid and the pension plan paid. Those are some of the driving forces why we think this bill is so important.

Mr. Percy Hatfield: You also call for a reform of the Construction Lien Act. Would it be best to do the two together, in your opinion, or do this first?

Mr. Mike Yorke: I think they're separate issues, but I do think that the Construction Lien Act is important because, look, if there are legitimate contractual disagreements, those have to be dealt with in a separate bill.

Mr. Percy Hatfield: From your perspective, who are the biggest offenders in not paying your people on time?

Mr. Mike Yorke: I don't think we have a direct answer for that. It's quite common throughout the whole industry, so I think we need to see some addressing of that throughout the industry.

Mr. Percy Hatfield: Thank you.

The Chair (Mr. Peter Tabuns): Thank you. Government?

Mr. Steven Del Duca: Thanks for being here this morning. I'll ask you the question I asked the representative from Manion Wilkins. Has the carpenters' union noticed an increased incidence of late payment or late payment risk in the industry over the last number of years?

Mr. Mike Yorke: We certainly see it when there's a bit of a downturn in the industry, and what we often would see is that employers would use withholding of funds to basically finance the next job. So that's one of the concerns for us. In the last few years, it's probably been very stable, but it's a driving—it's a real issue out there. I don't think we've seen a spike in it.

Mr. Steven Del Duca: Could you quickly elaborate on that point? You mentioned a second ago about people hanging on to payment that should be flowing in order to—

Mr. Mike Yorke: Sure. To purchase materials and property and develop job sites is very expensive. So if the funds that legitimately should be flowing to subcontractors and members for pension funds and other benefits are withheld to finance a subsequent job or another job, we take the position that that's improper and it's extremely unfair.

Mr. Steven Del Duca: Thanks very much.

The Chair (Mr. Peter Tabuns): Thank you. Opposition?

Mr. Monte McNaughton: Thanks for coming this morning. I wanted to just follow up from the question that Mr. Hatfield asked about the Construction Lien Act being amended to meet the objectives of prompt payment. You said that you prefer a separate piece of legislation for prompt payment, and if so, why?

Mr. Mike Yorke: We think that there are two separate items there. One is—look, if there are legitimate contractual differences, that should be separate from the prompt payment because prompt payment is for work that's been done effectively and that should flow through to the—whether through to the subcontractors, the contractors and then to the members.

Mr. Monte McNaughton: Because there have been a number of presenters that have touched on the Construction Lien Act and maybe incorporating prompt payment into that piece of legislation, so I was just curious for an opinion on that.

Mr. Mike Yorke: Sure.

Mr. Monte McNaughton: Thank you very much.

The Chair (Mr. Peter Tabuns): Okay. Thanks very much.

Oh, I apologize. Mr. Walker.

Mr. Bill Walker: Just a point. One of the things I've been struggling with in all of this deliberation is the ability for milestones. Many of the bigger projects are built on milestones and that's a way—the way I'm interpreting this is that it basically takes away that ability. So my concern would be, particularly when I hear you speak, that you want this expedited. That, to me, is a pretty significant clause that needs to be looked at in more detail.

Mr. Mike Yorke: I'm not sure I understand the question because—you're right around construction bidding and payments would be based on milestones. So if a certain amount of work has been accomplished, there's an agreement: Is that work done to code? Is it done to standard? Then the payment should be made. There are certainly milestones there, and we understand that in the industry.

Mr. Bill Walker: One of the pieces here says it will be payable to contractors 20 days following a submission of an application without regard to the actual value of work performed. How does that work? If I go down to my home renovation project, I'm not prepared to crack a cheque if that work is not done to the expectation I have it to on the timeline that we agreed on.

The Chair (Mr. Peter Tabuns): Mr. Walker, you've used your time. Thank you very much.

Mr. Mike Yorke: Thank you very much.

INTERIOR SYSTEMS CONTRACTORS ASSOCIATION

The Chair (Mr. Peter Tabuns): Our next presenter: Interior Systems Contractors Association. As you know, you have up to four minutes to present and up to six minutes to answer questions. Please introduce yourself.

Mr. Ron Johnson: Thank you very much. I appreciate the committee listening to my thoughts from the Interior Systems Contractors Association. My name is Ron Johnson. I'm the deputy director of ISCA as well as a director on the National Trade Contractors Coalition of Canada.

I had the opportunity, as you know, last week to listen to a number of the submissions. There are some patterns that have developed. But when I saw that EllisDon was coming today I was actually pleased, because some of you may or may not know, but Geoff Smith from EllisDon actually authored what he called a contractor's bill of rights. That was published in the Daily Commercial

News. In that contractor's bill of rights, Mr. Smith talked about the importance of paying people promptly. When they were on the list, I assumed they'd be here cheerleading Bill 69 because it's consistent with their corporate philosophy to pay contractors on time. But that's not what was said.

What was said is what has been said by everybody: that everybody believes in the concept of prompt payment. They don't necessarily believe in the practice of prompt payment. So on that 30th day, when Mr. Smith has to cut a cheque to the subtrades, his hand obviously shakes a little bit and he gets nervous about doing so.

The truth is that prompt payment is really a concept that needs to become a reality, and that disconnect is what Bill 69 aims to address. The concept of prompt payment does not pay the bills of the thousands of contractors in this province: small and medium-sized family businesses. It doesn't pay the bills for those contractors. Nor does the concept of prompt payment put food on the table for the nearly 450,000 people in this province who earn their living in the construction sector.

Let's talk just a moment about what the bill really does, putting all the rhetoric aside. What the bill does is simply enshrine in law the requirement to pay, within 30 days, for work that has been certified to be complete, not work that a contractor claims has been completed, not work that a contractor performed but not adequately enough: work that has been certified as complete. That's what the bill does.

What is the recourse if, in fact, the payment has not been made? It simply gives the owner of that small company—or the general contractor, quite frankly—the opportunity to make a business decision: "Do I stay on the job site? I haven't been paid. Or do I go? Do I pack up my tools and go home?" That's all the bill does. Pay in 30 days for work certified, and it gives the owner the right to make a business decision as to whether or not they stick around. That's what the bill does.

There's no other business or industry where an individual or business is required to continue to provide services under law without being compensated for those services.

The Chair (Mr. Peter Tabuns): You have a minute left.

Mr. Ron Johnson: Thank you.

What are our expectations? I can tell you that the expectations of the individuals and the companies and businesses that I represent, the contractors and the thousands they employ, are that this committee will continue to show leadership, will get this bill through the clause-by-clause stages in the next two weeks, and that all three parties will urge the bill forward for third reading and that all three parties will actually support the bill at third reading. That's our expectation.

You folks have an opportunity to take the concept of prompt payment and make it a reality in the province of Ontario—much like, by the way, a lot of other jurisdictions have done. They have realized they needed a legislative solution to slow payment in construction.

Thank you very much, and I'll take your questions.

The Chair (Mr. Peter Tabuns): Thank you. First question is to the government.

Mr. Steven Del Duca: Thanks very much for being here this morning, Mr. Johnson. I'm going to ask a question I've asked earlier today, which you've heard me ask two others. Have your members noticed that this is becoming an increasing problem? Is it a decreasing problem? If you can help us understand how much of a problem this is for your members.

0930

Mr. Ron Johnson: Yes, I have no problem addressing that. Look, we've got a lot of anecdotal evidence suggesting that our contractors now are waiting a great deal longer for payment than they used to. We're looking at payment terms that are averaging somewhere around 75 days. So then, hence, when the Construction Lien Act question comes up, people say, "Well, we have a lien act option." The truth is, you do not. You have to file a lien within 45 days of last being on the job—the last time you did any meaningful work on the job. But if your payment terms aren't until 70 days or 60 days or 90 or 120, your lien rights have long expired before you realize that you are not getting paid. So that's the challenge with applying a lien act solution to a prompt payment solution.

The lien act, quite frankly—I know I'm segueing a little bit here—is really not accessible to a lot of small businesses and companies. It's slow and it's time-consuming, and it's very expensive. That's the challenge for a small business. It's expensive to access that system.

Mr. Steven Del Duca: I'm not sure how much time I have left.

The Chair (Mr. Peter Tabuns): You have 45 seconds.

Mr. Steven Del Duca: What do your members do when they aren't paid on time and they don't exercise their lien rights, or if they can't? What do they do?

Mr. Ron Johnson: The truth is, they have to sometimes litigate to get their money. More often than not, they end up cutting a deal with the general contractor to take 50 cents on the dollar because they need the cash flow. These sorts of deals are always made, because the subtrades are in an inferior position on the bargaining side with respect to the general.

Mr. Steven Del Duca: Thank you.

The Chair (Mr. Peter Tabuns): Thank you.

To the opposition.

Mrs. Jane McKenna: Thank you so much for coming in. I have a couple of questions.

First, we've had so many people come in already, and if more than five people have something to say, there's usually validity in it.

When you look at this PMB, this bill, the way it is right now, we've had a lot of submissions, with a lot of amendments made to this because people felt that they weren't adequately consulted in this at all. Do you see that there need to be a lot of amendments made to this?

Mr. Ron Johnson: I definitely think there should be some. On my attachment there to the written submission, you'll see that there are six or seven amendments that we are suggesting. Many of those amendments, quite frank-

ly, do reflect some of the concerns that have been aired by other presenters.

So, yes, there need to be a few amendments, and we recognize that. However, any amendments that are made cannot affect the integrity of the bill, the concept of the bill, which is that contractors need to be paid for work that's certified as being complete. You'll find that the recommendations that we make in terms of amendments do not affect the integrity of the bill but do, in fact, address some of the concerns that people have.

Mrs. Jane McKenna: Don't you think that if you're putting a bill together, it's a bit reckless and irresponsible not to have consulted all the people that it ultimately is supposed to—the person that it's supposed to do the best for, ultimately, in the end, that's concerning to all these people who are here, that it's not going to. So don't you think it's the right thing to do?

Mr. Ron Johnson: I would suggest that if it was a government bill, you'd be absolutely correct, but there's a significant distinction between a government bill and a private member's bill, with all due respect, and this is a private member's bill.

I would also tell you that I believe there was a lot of consultation done. Nobody got caught off guard with this bill. This bill was first introduced back in 2011. It was reintroduced almost a year ago again—nine months, I believe. So nobody has been caught off guard by this bill.

The fact that some organizations have chosen to put their heads in the sand and ignore it up until this point—there's nothing we can do about that, but we have reached out. The trade contractors have reached out—

The Chair (Mr. Peter Tabuns): Thank you. I'm sorry; we've got to move on.

Mr. Ron Johnson: Okay.

The Chair (Mr. Peter Tabuns): The third party.

Mr. Percy Hatfield: Thank you, Chair.

Ron, nice to see you again.

Mr. Ron Johnson: You too.

Mr. Percy Hatfield: I want you to clarify for me. As I wrote down my note, you were saying that you can be paid within 30 days once the work has been certified as complete. Other people have said that those are milestones that aren't in the bill and what's being proposed is estimates: that you have to pay when the estimates are in. Clarify that for me.

Mr. Ron Johnson: Yes. I can, to a degree. When a payment application is made—on the 20th of the month, for example—there is an estimate taken into account. That's current contract language now. That goes on every day on every job site in this province. There's an estimate done to the end of the month—"What are the labour and material costs going to be until the end of the month?"--and they include that in their payment application.

But the bottom line is, if you have a certification time frame, which this bill does have—it's 10 days, and could easily be expanded to 20; that's one of our recommendations—that work will not be paid for until somebody has certified that the work has been done. So yes, on the payment application it goes forward, but at the end of the day, before a cheque is cut, that work is certified to be completed before the cheque is cut.

Mr. Percy Hatfield: Why do you think the MUSH sector is so adamantly opposed to this proposed bill?

Mr. Ron Johnson: I would think that it's obvious. I think that the MUSH sector has a really hard time trying to be efficient. In my view, some of the concerns that they have are legitimate, and we do try to address those in a few amendment proposals, but the truth is that there's a lot of mismanagement in the MUSH sector, and this bill has, I think, highlighted some of those inefficiencies that they suffer from. I don't think they like that, quite frankly.

Mr. Percy Hatfield: Are you suggesting that the MUSH sector is some of the people who delay prompt payment on a regular basis?

Mr. Ron Johnson: I'm telling you that, without a doubt, the taxpayers are paying a lot more for construction in this province than they should because public sector buyers of construction are slow to pay, and they're the worst offenders.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Johnson. Thank you for your presentation; thank you for the questions.

Mr. Ron Johnson: Thank you.

ONTARIO MASONRY CONTRACTORS' ASSOCIATION

The Chair (Mr. Peter Tabuns): We're on to the next: the Ontario Masonry Contractors' Association. Have a seat, please. You know you have up to four minutes to present. You've seen the drill.

Ms. Sandra Skivsky: I have.

The Chair (Mr. Peter Tabuns): If you would introduce yourself.

Ms. Sandra Skivsky: Good morning, and thank you for the opportunity to be here today. My name is Sandra Skivsky and I'm with the Ontario Masonry Contractors' Association. I'm also a representative of the National Trade Contractors Coalition of Canada.

I'm here today speaking on behalf of the people who employ tradespeople, who train apprentices and journeypersons, make payroll, pay benefits and pension contributions, pay taxes, and actually do the work.

You've heard mostly from the top of the construction food chain, who have argued against Bill 69. Other than some ethereal principle, their opposition to the fairness and equity of the proposed legislation is characterized by a host of potential problems, some of which can easily be addressed. It is more properly explained by a feudal belief system, where those closer to the bottom of the food chain should just accept their situation and that which is done to them, and that would be the trade contractors.

Bill 69, as Mr. Johnson said, is simply about being paid for work that's done to satisfaction. It's not being paid for deficiencies or work not done or providing overpayment possibilities—work that's done and approved. Okay?

It also gives the contractor the right to mitigate damages—which is a concept that everybody has access to—when they're not getting paid. It does not compel contractors to suspend work. It preserves the right of a contractor to make a business decision, weighing the likelihood of getting paid and deciding whether to continue bleeding or to try and stem it. Nobody walks off a job when they're getting paid. As the saying goes, if you're in a hole and you need to get out, maybe you should stop digging.

There are differences in prompt payment legislation across all sorts of jurisdictions; statutes vary from place to place. What's important, though, is the sheer number of jurisdictions that believe that prompt payment, with payment timelines, is important to have—except here, where we can't seem to get it right.

Bill 69 was not created from some utopian wish list. It mirrors the current unaltered standard documents. These are supposedly consensus documents developed by a broad spectrum of the construction industry and are promoted by organizations like the Canadian Construction Association and the OGCA. The language for Bill 69 was developed by the OGCA and the National Trade Contractors to reflect these construction practices; however, there are those who don't use these contracts as intended. As soon as you modify standard documents, guess what? They are no longer standard and unaltered. So it's okay for some to talk a good talk as long as they don't need to act on it.

The Chair (Mr. Peter Tabuns): You have a minute left.

Ms. Sandra Skivsky: I'd also like to point out that the province invests a lot of money into apprenticeship. There are enhancement funds, grants, incentives, seat purchase; however, as you invest and attempt to increase the number of apprentices, without prompt payment legislation, you're tying the hands of the very people who employ apprentices. Construction employs over 40% of all apprentices, and the vast majority work for trade contractors, who are facing increasing risk from uncertain cash flows, while those higher up the food chain say, "Let them eat cake."

In closing, Bill 69 is the right thing to do. Are there some amendments? Yes, and they've been proposed and they address some of the concerns that have been raised. But some of the issues that are raised around prompt payment are simply wrong or not well interpreted. Representing thousands of contractors and hundreds of thousands of workers, we ask that you do the right thing by Bill 69. Thank you.

The Chair (Mr. Peter Tabuns): Thank you. To the opposition.

Mr. Monte McNaughton: Great. Thank you very much. Just your last line there: You said that some issues that are being raised are wrong. What do you mean by that?

Ms. Sandra Skivsky: It does not compel people to walk off the job. In fact, it says that if there isn't anything in the contract that addresses work suspension, then you refer to Bill 69, and it has a process there. These folks are on the job 60 days, under optimal circumstances, before they can expect to see the first cheque. Then there's the whole process of notification up and down stream before—and things have to be done before somebody says, "Okay, I'm out of here." That's not something that someone undertakes frivolously.

0940

Paying for overpayment: This mirrors exactly what the standard documents contain. People talk about, "on the altered documents," and "no seal, no deal." None of this is an invention or something that's new. All we're asking is that it be enshrined in a way that people can access it.

Mr. Monte McNaughton: Okay, I know we only have a minute. Amendments to this bill: What are some of the things you'd like to see changed?

Ms. Sandra Skivsky: We talked about renovations for single-family homeowners—that could be excluded from the bill. Financial disclosure for municipalities, school boards, the crown: That could be excluded. Let me think. We have some more defined terms around what financial disclosure does mean, in the cases where it would apply. As I said, there are about six or seven that do address some of the concerns that were raised before, but the integrity of the bill and the payment structure needs to remain the same.

Mr. Monte McNaughton: Thank you.

The Chair (Mr. Peter Tabuns): Okay. Third party.

Mr. Percy Hatfield: Thank you for coming in and making your presentation today. I guess, along the lines of what Mr. McNaughton was just getting through with the proposed amendments to the bill: We heard, as you know, from the MUSH sector. They're concerned about timelines and estimates. They say that if they're looking after the municipal tax dollar, they have to prove and certify that the work has been done, not based on an estimate that it will be done next week. I want you, if you could, to address that issue for us.

Ms. Sandra Skivsky: Again, as Mr. Johnson said, invoicing comes in at the 20th or 25th of the month, so there is an estimate of a number of days of what's going to be accomplished. But that's that month; there's a whole other month before that payment gets made. So there's a time frame for someone to go and certify, "Yes, that's done; yes, that's to code; it's good," and that's the amount that gets paid.

I'll tell you, I've got a letter from the MUSH sector with what they said were the reasons they couldn't apply these timelines, and they listed "the mail," "vacations," and "other priorities." I've got to tell you, my members are not impressed.

Mr. Percy Hatfield: The suggestion has been made, as well, that the various ministries of the provincial government, knowing the red tape involved and the bureaucracy, will never be able to meet any of the deadlines that are proposed in this bill. Do you have a reaction to that suggestion?

Ms. Sandra Skivsky: I don't know. I've looked at a number of states and municipalities that have prompt payment. Atlanta, for example: 15 days' payment to general and three days' payment after that to the sub-

contractors—the city of Atlanta. It has actually got tighter timelines than the state of Georgia. It's being done.

I believe in this province, and I believe that we are capable, and the technology is there, to make improvements. I haven't seen the exact reasons on how this can be done—no one has quantified it for me—but if others can do it, surely we can here too.

The Chair (Mr. Peter Tabuns): Thank you. Now we go to the government.

Mr. Steven Del Duca: Thanks, Mr. Chair. How many members do you represent, and how many employees would they represent themselves, or employ?

Ms. Sandra Skivsky: Our association, specifically, has about 600 masonry contractors in this province. They would employ somewhere between 3,000 and 4,000 at any given time.

Mr. Steven Del Duca: So on their behalf, you've put a lot of time and effort into this process.

Ms. Sandra Skivsky: Absolutely.

Mr. Steven Del Duca: Last week, we heard a certain mayor from a certain municipality talk about the need to "do our homework" on this bill, and earlier this morning, the Conservative member from Burlington suggested that the process that led to this bill was reckless. I'm just wondering how you and your members would feel about both of those claims.

Ms. Sandra Skivsky: We would feel that that's misinformation. We're trade contractors, for starters. We don't have direct relationships, for the most part, with owners. For 18 months we did negotiate with our partners, the general contractors, so there was a long period of time for anyone that had any concerns about what is happening here to raise them.

The language was finalized last February. The bill was in the House. Anybody that's following this—I know that the letters from the MUSH sector came in the fall. Nobody has come up with solutions or how they'd like to approach this. They knew it was there. As I said, it's a private member's bill.

My job is to represent my members and do the best for them. We negotiated with the people that we work for.

The Chair (Mr. Peter Tabuns): Thank you very much.

Ms. Sandra Skivsky: You're welcome.

DRAGADOS CANADA, INC.

The Chair (Mr. Peter Tabuns): We'll go to the next presenter, Dragados Canada. You have up to four minutes to present. Six minutes has been allocated for questions. If you'd introduce yourself for Hansard.

Mr. Patrick Dolan: Sure. Thank you. Good morning, committee. My name is Patrick Dolan. I'm senior legal counsel at Dragados Canada. We're a Spanish-owned general contractor that has been active in Canada since 1998. I'm here as part of Fair Payment Reform Ontario. We're a coalition of general contractors who support the principle that contractors and subcontractors should be paid promptly for work performed well. We also support the consideration of prompt payment through a consultative process which would solicit input from all stakeholders in the industry and which would avoid the destabilizing effects that Bill 69 could have.

You'll see in the presentation material in front of you that I'm going to focus a bit on foreign prompt payment acts. You've heard from a number of proponents of the bill that Bill 69 already exists in much of the world—the EU, the UK, Australia and the United States. That is simply not true. Bill 69 is quite unlike the prompt payment legislation that exists elsewhere.

One important feature that is unique to Bill 69 is that it mandates monthly payments based on an undefined notion of value. Under Bill 69, parties are not free to agree on the value and timing of payments. They're not free to agree on the criteria for determining when work is complete, whether in part or in whole, and they're not even allowed to agree on what documentation needs to be provided with an invoice, such as monthly work reports, which owners and general contractors need to manage the project. Quite simply, no other country prevents parties from mutually agreeing on the timing, value and conditions for payment.

The EU and US laws, for example, focus on the number of days that the owner or contractor has to make payment after invoices have been submitted and approved in accordance with the agreed contract. They do not impose an obligation to make monthly payments or get into the complex exercise of valuing those payments. This is left to the parties to the contract, who are best placed to do so.

I'd just take a step back and say that interim payments in construction are a delicate balance. The value of interim work is very hard to deduce. The cost of doing half the work can far exceed the value to the owner of a half-finished job. In making interim payments, the owners take a certain risk that the finished work is not going to function the way it is supposed to. This risk, however, is balanced against the fact, and the commercial reality, that interim payments are vital to contractors and subcontractors to manage their cash flow.

However, by unsettling this balance that owners negotiate with contractors and contractors with subcontractors—

The Chair (Mr. Peter Tabuns): You have a minute left.

Mr. Patrick Dolan: —thank you—Bill 69 will result in cost inefficiencies and lead to disputes and litigation. In the end, citizens and taxpayers are going to end up paying more, either through their funding of public projects or as business and homeowners who engage contractors directly.

This is just one example of how Bill 69 will unsettle the construction industry in Ontario. These are complex issues, and Fair Payment Reform Ontario is pushing to have them considered in a consultative process led by the Ministry of the Attorney General, in particular, because many aspects of Bill 69 are unprecedented, both in Canada and anywhere in the world.

Thank you for your time. If there are any questions, I'd be happy to answer them.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Dolan. We start with the third party. Mr. Hatfield.

Mr. Percy Hatfield: Thank you, Mr. Chair. Hello, Mr. Dolan. You're with Dragados?

Mr. Patrick Dolan: Dragados, yes.

Mr. Percy Hatfield: You're involved with the Herb Gray Parkway in Windsor?

Mr. Patrick Dolan: That's right.

Mr. Percy Hatfield: One of the companies there is Freyssinet.

Mr. Patrick Dolan: That's right.

Mr. Percy Hatfield: When you were working with them on the girders, you failed to get them to post a performance bond.

Mr. Patrick Dolan: I'm unable to speak to that matter right now. We are suing Freyssinet for their work on the project, so we obviously have issues with how Freyssinet has performed.

Mr. Percy Hatfield: Yes, and so do the suppliers in Windsor who haven't been paid. Prompt payment is good, and I've commended Mr. Del Duca for bringing it forward, but it doesn't address when one of the companies that you took on and didn't require them to post a bond—when they stopped payment of bills, there was no money there and no way to go back after them to pay the local suppliers.

0950

Mr. Patrick Dolan: Well, I do acknowledge that there are issues with the Windsor-Essex parkway. I mean, our company, as you're aware—there is this issue with Freyssinet. We've never been claimed that Dragados or the construction company has failed to make prompt payment to its contractors or subcontractors. So I think, insofar as this bill is going to address prompt payment, we agree with that concept and we fulfill that in our work.

Mr. Percy Hatfield: But you don't think what's on the table is going to satisfy your company?

Mr. Patrick Dolan: I think what is on the table goes far broader than what exists in other jurisdictions, and probably far broader than what is needed in Ontario.

Mr. Percy Hatfield: Would you agree there is something that's needed so the little guy in this province gets paid in a prompt and fair fashion for work that has been provided?

Mr. Patrick Dolan: Yes. I think that Fair Payment Reform Ontario, the coalition that we support—you know, we think this issue is important and that it should be considered by the industry as a whole, not just looking at it from one aspect.

The Chair (Mr. Peter Tabuns): Thank you. Sorry. We're going to go to the next. Government?

Mr. Steven Del Duca: Thank you for being here this morning and for providing us with the sheet of paper that does provide a bit of an explanation around how other prompt payment acts that exist in other jurisdictions operate.

I don't actually have a question. I do appreciate you being here. I did just want to say, just so it is clear from my perspective and also based on, I think, most of the testimonies and presentations that we've heard both this week and last week and in debate in the Legislature, that I don't actually recall many, if any, saying that Bill 69 exists in other parts of the world, which you did claim in your opening remarks. What I've heard, and what I've certainly said as the sponsor of this bill, is that there are many other jurisdictions that have prompt payment acts, not specifically Bill 69. I just wanted to clarify that. But thank you very much for being here today and for making your presentation.

The Chair (Mr. Peter Tabuns): Okay. Thank you. To the opposition.

Mr. Monte McNaughton: Thank you very much. I just wanted to ask: The last line here says, "Bill 69 does not consider Ontario's uniqueness." I wondered if you could just expand on that some more.

Mr. Patrick Dolan: I think it's an important fact that the prompt payment legislation—I acknowledge Mr. Del Duca's comment that there is prompt payment legislation in a number of countries. In the EU, for instance, it's not just limited to construction; it's the entire commercial realm. Whereas in other states in the US for instance, it might be limited to public construction or non-road-building construction.

I think it's important too that Ontario take a look at the structure of its industry and see where prompt payment has a place and where it is so important that the Legislature has to say, "This is a mandatory term in every contract." It's a big step, and I think we have to be careful about how broadly it is applied and how it can be tailored to our specific situation.

Mr. Monte McNaughton: Okay. Excellent. Thank you very much.

The Chair (Mr. Peter Tabuns): Further questions? Mr. Walker?

Mr. Bill Walker: No.

The Chair (Mr. Peter Tabuns): No? Okay. Thank you very much.

Mr. Patrick Dolan: Thank you.

ONTARIO CONSTRUCTION FINISHING INDUSTRIES ALLIANCE

The Chair (Mr. Peter Tabuns): Our next presenter, then: Ontario Construction Finishing Industries Alliance—if you'd have a seat. As you've seen, you have up to four minutes to speak, and then up to six minutes of questions. If you'd state your name for Hansard.

Mr. Jeff Koller: Thank you, Mr. Chairman and committee members. My name is Jeff Koller, here on behalf of the Ontario Construction Finishing Industries Alliance.

Much has been said about protecting the best interests of taxpayers this week and last, but nobody has mentioned anything about protecting the best interests of 434,000 Ontario taxpayers who earn their living from construction, or the 40,000 employers who pay business taxes, personal income taxes, WSIB premiums, employer health tax, harmonized sales tax, property tax, and who provide jobs to the previously-mentioned 434,000 Ontario taxpayers.

You've heard from municipalities and school boards who say that late payment is not an issue with them and that it's impossible to certify a project as being complete and paid within a month. Public sector owners are some of the worst offenders when it comes to late payment. Does anyone here truly believe that municipalities and school boards are the best guardians of the public trust and the most efficient examples of how to wisely spend taxpayer dollars? Wasn't it Brampton earlier this month that reportedly lost $704 million that was earmarked for construction and infrastructure?

They were asked last week if they had reached out proactively to proponents of this bill over the last three or four years to work out any differences of opinion. The question should be: Why would they? They are fundamentally opposed to the principles of this bill because it requires efficiency and accountability. As Eryl Roberts said last week, this legislation is not designed to expose the deficiencies and inefficiencies of public sector purchasers of construction. It only does that as an unintended consequence. Maybe that's one of the unintended consequences they speak of.

They complain about a lack of consultation, but the reality is that no amount of consultation, short of scrapping this bill, would make them happy. They haven't become engaged before now because, as they freely admit, they never thought this private member's bill would get this far. This is their day in court, as it is for those of us who represent the 434,000 Ontario taxpayers who earn their living from construction. This is the public process, and I find it a little arrogant of them to appear before this committee and claim that they are not being provided with an opportunity to be heard.

As far as general contractors go, this is not the first time they've worked in partnership with other associations for the betterment of the industry, only to turn around and stab them in the back by pulling their support at the last minute. But their association was part of this process from the beginning and helped co-author this bill. They're welcome to engage in more complex contracts with owner developers, which they say this bill doesn't address, so long as they fill their obligations to pay their subcontractors every 30 days, because the subcontractors, in turn, have to pay their employees every Thursday, who, in turn, have to put food on their families' tables.

Much has been said about contractors being able to arbitrarily stop work, which would drive up costs and lead to delays. The reality is that no reputable contractor would ever stop work as long as he or she is being paid. This legislation does not allow for frivolous—

The Chair (Mr. Peter Tabuns): You have a minute left.

Mr. Jeff Koller: —work stoppages. It does give a contractor an ability to cut his or her losses if they are made to wait an unreasonable amount of time for payment.

Prompt payment does not drive up the cost of construction. Bureaucratic inefficiency resulting in late payment drives up the cost, because it shrinks the pool of qualified bidders as cash flow is stretched too thin and as contractors have to build late payment risk into their bids.

This legislation is imperative for all the right reasons. Nobody disagrees with the principle of fair and prompt payment. How could they? To do so would be morally reprehensible and indefensible. The purpose and intent are very simple, and those are to ensure that contractors get paid within a month of completing their work, not in three or four months, as is common practice.

I implore the members of this committee to press forward with this bill and amend it as needed, but in such a way as to preserve the spirit and intent—and a list of agreeable amendments are included in my written submission—and recommend that it be brought before the Legislature for third reading as soon as possible. The livelihoods of hundreds of thousands of Ontario construction workers, who also happen to be taxpayers, depend on this.

The Chair (Mr. Peter Tabuns): Thank you.

Mr. Jeff Koller: Thank you.

The Chair (Mr. Peter Tabuns): We'll go to the government first.

Mr. Steven Del Duca: Thanks very much. Thank you for being here today, Mr. Koller. You mentioned that in your written submission you have some suggested amendments. Could you perhaps discuss a couple of those with us right now and let us know what you think needs to be done?

Mr. Jeff Koller: Absolutely. Thank you. Number one, we would have no objections, as I said, to the general contractors entering into their own arrangements with owner developers. That would address the more complex contracts that they talk about.

Number two, we have no objection to extending the deemed certified provision, which the school boards and municipalities say is unattainable, from 10 to 20 days, or even longer, as long as a cheque follows on that 30th day.

Number three, we would exempt homeowners, because the reality is, if a homeowner engages a contractor for home renovations, they're going to be paying upfront anyway, with the balance due upon completion. So this really doesn't apply to them.

Number four, we would be agreeable to allowing a one-year implementation period for this legislation to allow the industry to adjust.

What else? Financial disclosure requirements: We have no objection to excluding the municipalities and school boards from that, as they do have a bottomless supply of taxpayer dollars that they can draw on, so likely they'll never be unable to pay.

Mr. Steven Del Duca: Thank you very much.

The Chair (Mr. Peter Tabuns): Okay. Opposition?

Mr. Monte McNaughton: Thank you very much for your presentation. I just wondered if you have any statistics on how long it takes municipalities and school boards to pay their bills. Do you know what the average term would be? Would it be 60 days, 90, 120?

Mr. Jeff Koller: Generally, the industry is seeing upwards of 90 days on average. There's an example that was quoted in the media a few months back, where a

residential drywall contractor had $7.6 million in arrears, $6 million of which was more than 120 days past due.

Mr. Monte McNaughton: Okay. Now, do you know how that compares to the private sector?

Mr. Jeff Koller: There would be a mix, but as Eryl Roberts said last week, and as it details in the presentation, this legislation isn't designed to expose inefficiencies in the public sector, but the reality is, you read stories about Brampton losing money, and you read stories about pencil sharpeners costing $147 to install. They don't have the best reputation. A lot of this is anecdotal, for sure, but I think, as Mr. Del Duca mentioned last week, the city of Toronto has spent over $1 billion in construction and hasn't reached out proactively to proponents of this bill for consultative purposes. Why? Well, because they don't want this bill.

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Mr. Monte McNaughton: Thank you very much.

The Chair (Mr. Peter Tabuns): No further questions? I'll go to the third party: Mr. Hatfield.

Mr. Percy Hatfield: We've heard from various people in the industry that when the government went, say, on infrastructure projects from the old traditional method to the P3s, some of the companies had contracts for the subs that were 800 pages long and so on. Since the government has gone to the P3 model, do you think that within the industry the issue of prompt payment to the local subs has been greater because the money isn't trickling down the way it used to?

Mr. Jeff Koller: The money still trickles down slowly. It's an endemic problem in the construction industry that isn't tolerated in any other industry, and it's getting worse.

Mr. Percy Hatfield: It's getting worse. So—

Mr. Jeff Koller: You're seeing more instances of business insolvencies because their cash flow is stretched too thin.

Mr. Percy Hatfield: And as far as the amendments, you have included some here. Is that the extent to which you would agree that this bill could be enhanced, or might there be something else other than what you have suggested?

Mr. Jeff Koller: I think the bill is good as it is, but these are amendments that we would be agreeable to, that we don't think would significantly alter the purpose and intent of the bill, which is that contractors get paid within 30 days of certified completion of work.

Mr. Percy Hatfield: And what is your expectation of this committee as far as a report to the Legislature? What's the timeline?

Mr. Jeff Koller: Well, we would like to see it referred back to the Legislature after clause-by-clause hearings, to be recalled for third reading as soon as possible, and before a spring budget, in the event that the spring budget fails and this then dies. There's a lot of time and effort that has gone into this, and any delay could result in businesses going bankrupt and employees not being able to feed their families.

The Chair (Mr. Peter Tabuns): Thank you. We've come to the end of the two minutes.

REGIONAL MUNICIPALITY OF WATERLOO

The Chair (Mr. Peter Tabuns): Our next presenter, then: the Regional Municipality of Waterloo. As you've seen, you have up to four minutes to present and up to six minutes of questions. If you would introduce yourself for Hansard.

Mr. Richard Brookes: Thank you, Mr. Chair, and members of the committee. My name is Richard Brookes. I'm a solicitor with the region of Waterloo. I have been employed by the region of Waterloo's legal department and practising in the area of construction law for up to 16 years.

Just as background, the region of Waterloo consists of the cities of Kitchener, Waterloo and Cambridge. In 2014, we have a budget of $200 million for capital projects, plus we're going to begin our light rail transit project, which is a significant light rail rapid transit project for our area, and extremely expensive too.

Hearing the other delegates, the one thing that I wanted to first of all say is that, again, I've been in this area for 16 years. It was only through an advisement from AMO, the Association of Municipalities of Ontario, that I actually became aware of this private member's bill. That may be because we're not from the GTA, we're outside of the GTA, and maybe we're not part of the loop, but I was not personally aware of it, nor were any of our other senior members of staff.

The other thing that I wanted to emphasize is that at least in the region of Waterloo, we meet on an annual basis with our local construction associations. We give them feedback about our concerns for the past year, they give us their concerns, and I am not aware of our local construction associations bringing forward any concerns about prompt payment, so this is somewhat new to us.

As far as I know from dealing with our construction engineers, prompt payment is not a big problem at the region of Waterloo. Where we do have problems is the fact that contractors make payment applications, we then review them and say that either the payment applications are deficient, which goes to inefficiencies of the contractors; or, more commonly, unfortunately, the reason we have a problem with it is because there are deficiencies in the work. As a private person or a public entity, we don't want to pay for work that is either deficient or is not properly complete. That really becomes the real bone of contention between the owner and the contractor, at least from our perspective. So that's a bit of the background.

I have provided a handout. The handout has just some main bullet points. It also has the letter of our regional chair, Ken Seiling, who has also provided his views and the views of our regional council to the leaders of the three parties.

The one major thing that I wanted to hit on, coming from a lawyer's perspective, is that I don't want to be here two years from now and litigating, "What does this section mean? What does that section mean?"

One of things that we're concerned about, for example, is under bullet number 3. In this section, it

requires the owner to go through an analysis to determine whether or not they are under their private contract or if the owner is under the Bill 69 legislation, because it says that if you have final payment, then you—

The Chair (Mr. Peter Tabuns): You have a minute left.

Mr. Richard Brookes: The comment that I wanted to make and emphasize is that when you're in that analysis, we may have our interpretation, the contractor will have their interpretation, and then we'll be litigating about whether Bill 69 applies to us or not.

One of the beauties of the Construction Lien Act is that it's minimum legislation. It says, "Every contract is deemed to include the following." So I don't have to say to myself, "Does the Construction Lien Act apply here or doesn't it?" I just know: 45 days, we've got to hold the money back.

One of the suggestions I would make, if the province is going to proceed with this legislation, is that, number one, there be—and I hate to say this—more consultation. At least bring in AMO and bring in the owners. Let's talk about this and see what the problems are. Let us understand where the contractors are coming from. And then talk about, maybe, a new structure that is something about minimum legislation, rather than something where we have to figure out, "Am I in this scheme or am I outside this scheme?"

Those are my submissions. Thank you, sir.

The Chair (Mr. Peter Tabuns): Thank you very much. Questions start with the opposition.

Mr. Monte McNaughton: Thank you very much for your presentation. We don't have any questions.

The Chair (Mr. Peter Tabuns): Thank you. Third party?

Mr. Percy Hatfield: Thank you. When Mayor McCallion was here, she took some exception to the private members' bill process, calling it "very dangerous," as opposed to a government bill with a wider consultation. Do you share that view?

Mr. Richard Brookes: I would agree that we would have liked more consultation. I think the consultation we would have preferred is that the construction associations, first of all, would have come to us directly, either to AMO or even to us as an individual municipality, and say, "Look, these are some of the real, fundamental problems that we have. Let's start working through them."

To give you an example, a common contract in Ontario is CCDC, which is actually made up of members of both the construction industry and the owner industry. They work together to come up with a contract that everybody can live with. That would have been my first suggestion. Let's deal with this outside of government first. If we can't resolve it, let's use government as the last resort.

Mr. Percy Hatfield: When you did become aware of this—and it took you by surprise; you saw the AMO bulletin that went out to all 444 municipalities—did you take it upon yourself to contact Mr. Del Duca to see where he was coming from and what your input could be to help shape his comments in any way?

Mr. Richard Brookes: No, we didn't, because, really, we look to AMO to be our representative. AMO put out the information and they provided us with a draft letter that they were sending to the leaders of the three parties. They suggested we do the same, so we went to our regional council and did it as well.

We're quite willing to go to the table now and really talk about, "Here are your concerns; here are our concerns. Let's work together."

Mr. Percy Hatfield: You've been at it for 16 years. This is not the first time that a proposed bill of this magnitude, I guess, came forward. I think the Speaker, Mr. Levac, brought it some time ago. Did you take part in those discussions then?

The Chair (Mr. Peter Tabuns): Mr. Hatfield, I'm sorry, your two minutes are up.

To the government.

Mr. Steven Del Duca: Thanks, Mr. Chair. A couple of things—I'm going to try to do this really quickly. One is, the letter that your regional municipality sent to all three party leaders, taking off from where Mr. Hatfield left off: I noticed that it was addressed to all three party letters, and then it was actually copied to a number of other individuals. I just want to say on the record, as the person who sponsored this bill, in keeping with your notion of consultation, I'm a little disappointed I wasn't even copied on the letter that came from your municipality. That's number one.

Number two, I think you might have heard earlier today from other deputants that, in fact, what's fundamental to this bill is that work that's completed and certified as complete—therefore, not incomplete work and not deficient work—should get paid on time or within a reasonable time frame. That's kind of fundamental to the bill.

Lastly—again, I don't like spending too much time talking about consultation, because we've been over this ground many, many times. This is the second time this kind of bill was introduced in the Legislature. The first time was in 2011. This bill was introduced for first reading in May 2013, which is almost a year ago. There have been a number of consultations, and I think that while, again, it is different from a government initiative as a private member's bill, I just wanted to clarify on the record and say that from a private member's standpoint, I think there was as much consultation for this kind of a complex bill.

Lastly, private members' bills—last week, Mayor McCallion mentioned that they are dangerous. I would say into the record: certainly no more dangerous than many of the municipal resolutions I've seen come up over the years in municipalities across the province of Ontario.

With that, I'm done. Thank you very much for you being here today.

The Chair (Mr. Peter Tabuns): Thank you very much.

We've had all our presenters. I want to thank all of those who came this morning and presented before the committee. You were very to the point.

COMMITTEE BUSINESS

ELECTION OF VICE-CHAIR

The Chair (Mr. Peter Tabuns): We have further items of business. We move to the appointment of a Vice-Chair. Mr. Hatfield, do you have a motion?

Mr. Percy Hatfield: I do. I'd move the appointment of Catherine Fife as Vice-Chair—the member from Kitchener–Waterloo.

The Chair (Mr. Peter Tabuns): Any discussion? Shall the motion carry? All those in favour?

Mr. Monte McNaughton: Would you like hands?

The Chair (Mr. Peter Tabuns): Yes, I would like hands. All those in favour? Opposed? Carried.

That concludes our business for today. I'd like to remind members that the deadline to file amendments with the committee Clerk is this Friday, March 28, at 12 noon.

The committee is adjourned until 9 a.m. on Wednesday, April 2, for clause-by-clause consideration of Bill 69.

The committee adjourned at 1011.

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Also taking part / Autres participants et participantes
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Comité permanent des règlements et des projets de loi d'intérêt privé

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Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario

Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 2 April 2014

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Mercredi 2 avril 2014

The committee met at 0900 in committee room 1.

COMMITTEE BUSINESS

The Chair (Mr. Peter Tabuns): The Standing Committee on Regulations and Private Bills will now come to order.

Mrs. Donna H. Cansfield: Chair, I'd like to move a motion, please.

The Chair (Mr. Peter Tabuns): I recognize Mrs. Cansfield.

Mrs. Donna H. Cansfield: Thank you very much, Chair. I move that the Standing Committee on Regulations and Private Bills set aside clause-by-clause consideration of Bill 69, Prompt Payment Act, 2014—

The Chair (Mr. Peter Tabuns): Your motion is in order. Would you like to speak to it?

Mrs. Donna H. Cansfield: I'd just like to continue.

And that the committee next consider Bill Pr27, Toronto International Film Festival Inc. Act (Tax Relief), 2014.

The Chair (Mr. Peter Tabuns): Would you like to speak to that, Mrs. Cansfield?

Mrs. Donna H. Cansfield: No. I'd just like to be able to move this bill. We heard, I think, from many of the individuals who came to speak to us about Bill 69 that it required further consideration.

The Chair (Mr. Peter Tabuns): The member from Kitchener–Waterloo?

Ms. Catherine Fife: Thank you very much, Mr. Chair. When was the TIFF bill expected to be scheduled? Where is it in the schedule of debate?

The Chair (Mr. Peter Tabuns): The bill is scheduled to be heard on April 16. It's already set in our program of activities.

Ms. Catherine Fife: This is highly unusual. We do have people who have come here today to listen to Bill 69 clause-by-clause consideration. What is the rationale for putting Bill 69 aside and introducing the TIFF bill?

Mrs. Donna H. Cansfield: If I may, I think we had serious consideration from a number of individuals who spoke to this committee about the need for additional consultation to take place on this bill, and we listened to and heard from those individuals, as well as many other of our colleagues, and so we were asked to withdraw the bill.

Ms. Catherine Fife: If the TIFF bill comes forward next week—you know that we're supportive of it—it's just a delay of a couple of days, really. I'm not sure that rationale warrants changing the structure of the clause-by-clause consideration for Bill 69 today.

The Chair (Mr. Peter Tabuns): Further comments?

Mrs. Donna H. Cansfield: Again, I'm just suggesting that because we're setting the one aside we'll bring the other one forward. It's already set on the agenda. I don't think it's a difficulty to have that discussion.

The Chair (Mr. Peter Tabuns): Okay. I have Mr. McNaughton and then I have Mr. Hatfield.

Mr. Monte McNaughton: Thank you very much, Chair. I'm going to take a few minutes to offer some comments and feedback into the record here this morning.

As you will know, throughout this process, I have been pleased to meet and work with a number of stakeholders, industry associations and experts in the construction industry on behalf of the PC Party of Ontario. I've also been pleased to work across the aisle with MPP Del Duca.

Of course, we are baffled, along with a number of industry associations that are represented here today and that have appeared before this committee and previously in the House to support this bill or support portions of this bill. We know this bill is not a perfect bill—we heard that, as Mrs. Cansfield said—but most PMBs are not. But there are important elements of this bill that are worth debating and worth supporting.

MPP Del Duca brought this bill forward, and although our caucus has identified some major areas of concern, we have supported the principle of prompt payment throughout this whole process.

Coming from a small business, I can tell you that keeping your accounts current and keeping your receivables in check is a daily concern, and I think we can all agree to the principle that if you do the work, you should get paid. Much as it is at the hardware store, the barber and hairdresser, the gas station and the tack shop, if you receive goods or services, the expectation is that payment will be immediately forthcoming.

Chair, I wrote to Premier Wynne, then-Labour Minister Naqvi and MPP Del Duca back in October 2013, expressing my support for the idea behind this bill and asking for clarification on when and how this bill

would move forward. I rose in the House on two occasions and asked questions about how this bill would be moving forward, and again received nothing from the government: no answer, no responses, no details, nothing.

One thing that Premier Wynne did tell me in her response to my question was, "The bill will move through the normal course of the process in the Legislature. There will be an opportunity for debate and a vote." Of course, those of us here today know that this is yet another statement that the Premier has turned her back on and even run away from, and we now know clearly the Ontario government will not be calling this bill forward.

Chair, this is not the normal process for a PMB, and this process is actually limiting our debate and halting our opportunity to vote on this important piece of legislation today.

I need not remind anyone that the construction industry employs over 400,000 hard-working men and women all across Ontario. This is equal to 6.4% of our total workforce, yet the construction industry has unique payment terms and processes, and this bill was an attempt to review and resolve some of these unique processes and to ensure fairness for our small and medium-sized businesses.

It is important to note that the majority of US states, the UK, Ireland, the EU, Australia and New Zealand already have prompt payment legislation in place and on the books. As we learned from our public consultations, the other legislation, quite clearly, is quite different than Bill 69.

Yes, Chair, I am disappointed today. The people here in the committee room are disappointed today. I'm sure that MPP Del Duca is a bit disappointed today as well. Unfortunately, I thought that he would be here for the last day of this.

All of us would have liked to see this process run its course, would have liked to be proceeding with clause-by-clause here this morning, and would have liked to dig into some amendments and discuss the merits and flaws that we all agree exist within Bill 69.

Killing a PMB like this, taking away our ability to review and debate this important subject here at the committee level, is not the type of democracy Ontario residents want. It does nothing to solve the problems that exist in the construction industry and just goes to show you that the government party, quite frankly, Chair, is in complete and utter disarray. They have no plan—no plan to reduce the size and cost to government, no plan to create private sector jobs in the province of Ontario.

By killing Bill 69 this way, the Liberal government has done a disservice to Ontario residents here today, and I think it's important to get that onto the public record. Thank you.

The Chair (Mr. Peter Tabuns): Ms. Cansfield?

Mrs. Donna H. Cansfield: Yes, thank you, Chair. If I may, a number of individuals came forward and indicated their support, as has this government, for the concept and the principle of prompt payment.

But it also became evident, in listening to a significant number of those—municipalities, businesses and even some of the contractors themselves—that possibly putting in place another piece of legislation to deal with an existing piece of legislation, which is the Construction Lien Act—that it might be more appropriate to go directly to that act and make the changes there, because it's a more appropriate place to do it.

I don't think anybody is in disagreement with the whole concept or principle of prompt payment; neither is this government. Legislation is an important part of our process, but it's really important to get it right. This is a private member's bill. If we have an opportunity to take an existing piece of legislation and make sure that it is appropriately amended, it makes more sense than using another piece of legislation to amend an existing piece of legislation. That's what we're saying.

We listened to what people had to say. We agree, in principle. They want some more consultation, and there is the suggestion of opening up the Construction Lien Act, which makes far more sense than putting in place a piece of legislation to amend an existing piece of legislation.

I want to make sure that people know and understand that this government is in support of the principle of prompt payment; nothing has changed from that. But it is absolutely critically important that this be done correctly, properly and with the full consultation that we heard individuals indicate had not taken place. That's an important part of this whole process around legislation.

The Chair (Mr. Peter Tabuns): I have Mr. Hatfield next.

Mr. Percy Hatfield: Thank you, Mr. Chair. I'd like to clarify a couple of points, if I could. First, I believe I heard Ms. Cansfield say that they are committed to the TIFF bill and want to rush it along to third reading and will support it there, and that's the purpose for this. Thank you very much for that.

I know it will be in Hansard, but although this motion says, "set aside clause-by-clause," I thought, Donna, when you spoke, that you said "withdraw." I would just like to clarify: Are you withdrawing Bill 69 and turning your focus on the Construction Lien Act instead?

Mrs. Donna H. Cansfield: My understanding is, when you set aside clause-by-clause, that actually you are withdrawing. Is that not correct, Clerk?

The Clerk of the Committee (Ms. Valerie Quioc Lim): We can set it aside, but the bill will still be before the committee.

Mrs. Donna H. Cansfield: Right, but it's not going to be on the committee's agenda.

Mr. Percy Hatfield: So in effect, you're withdrawing further consultation on it. You're setting it aside and, instead, the focus becomes the Construction Lien Act.

Mrs. Donna H. Cansfield: That's correct.

Mr. Percy Hatfield: Thank you for clarifying that.

Chair, I wonder if we could have a 20-minute recess, please?

The Chair (Mr. Peter Tabuns): Only with the concurrence of the committee. Is the committee agreed to the 20-minute recess?

Mrs. Donna H. Cansfield: Agreed.

The Chair (Mr. Peter Tabuns): Concurred. We are recessed for 20 minutes.

The committee recessed from 0910 to 0930.

The Chair (Mr. Peter Tabuns): The 20-minute recess is over. The committee reconvenes. Ms. Fife?

Ms. Catherine Fife: Obviously, this is a very unusual situation, I think, although I will say that it's more than encouraging that the Liberals are willing to move up the TIFF bill. Our member from Trinity–Spadina, Rosario Marchese, has been fighting for that for quite some time. I assume, because you're willing today to move it up, that you will move it immediately after it's reported by the committee to third reading. We look forward to your support in that. No games—it's long overdue.

That said, when we look at the process of how we all ended up here today, including people from the construction sector, the proposal of just amending the Construction Lien Act doesn't address one of the key issues that Bill 69 did address, which is strict timelines for payment, which I think in this environment should be an economic imperative for all of us. Contractors and subcontractors need to get paid on time to keep the economy going.

When we look at the history of trying to get prompt payment moved forward in this Legislature, there really is no reason why, for the last 10 years, the Construction Lien Act couldn't have been amended in the first place. So I think that the proposal of amending the Construction Lien Act doesn't address the problem at hand.

Of course we came to this table this morning with the understanding that Bill 69 did have some weaknesses, and we were certainly willing to do the hard work of amending it to make it work for the economy and for the construction sector. In fact, we brought forward a preliminary package of recommendations.

I'm very surprised to see that Mr. Del Duca is not here, the member from Vaughan. He introduced this at first reading with our support. It went through the consultation process. We heard feedback. We were willing to amend it. I think it's going to catch a lot of people by surprise today to see that the Liberals are willing to set it aside.

That said, I think we will definitely not be supporting the motion as presented.

The Chair (Mr. Peter Tabuns): Thank you, Ms. Fife. Any other comments? Mrs. Cansfield.

Mrs. Donna H. Cansfield: If I may respond: Again, as I said, there have been a number of people who deputed, who spoke to the need for further consultation. I think there is obviously a willingness to look through the Construction Lien Act to see whether or not these issues can be addressed, but I believe also, if you look at the release that was put out today, there's a willingness to look at, if it can't be addressed that way, how it can be addressed, ensuring that some of those weaknesses that were identified in the bill by my colleagues and some issues that were problematic could also be addressed so that we would in fact have something that works.

The principle is sound, but the issue becomes—it says here, "reducing the financial risks companies face when they are not paid for services on time; making sure payment risk is distributed fairly among all industry participants; finding ways to ensure that companies pay for services and supplies on time."

Those are the commitments that we are prepared to address. We want to be able to do that in a way that it addresses those issues but at the same time deals with the weaknesses or the problematic issues that are within the bill.

We still have our motion on the table and we wish to proceed with that motion.

The Chair (Mr. Peter Tabuns): Mr. Hatfield?

Mr. Percy Hatfield: I'm still new at this. Right? I'm on a bit of a learning curve. I came in on the committee during the presentation stage. We listened to two days of delegations, we heard the pros and cons. Many of the delegations presented, as Mrs. Cansfield has said, and suggested possible amendments might be able to fix this so that it would be more acceptable, and they asked for a wider consultation.

Several of them had suggested—I forget if it was six, seven or eight—amendments that might have, if tweaked, made the bill more acceptable to a wider audience, so I thought that's what the next stage of this would be. Then—I can't recall if it was last Thursday or last Friday—there was a government release put out that said they were going to look at the Construction Lien Act and do a new review on that. I remember thinking at the time, "I wonder if that will impact on the work that we've done in committee so far." I didn't hear anything else about it.

I came today prepared to do the hard slogging of clause-by-clause and listen to the amendments that I thought Mr. Del Duca would be bringing forth in order to find wider acceptance for his private member's bill. Mr. Del Duca isn't here, and there are no proposed amendments coming forth.

Instead, the government side has suggested that they set aside further discussion on Bill 69, withdraw it and, instead, move the priority to the tax relief for the Toronto International Film Festival, which I fully support. My caucus fully supports tax relief for TIFF. Mr. Marchese has been promoting that for some time, and I'm pleased to hear that the government will make it a priority and will rush it along to third reading as soon as possible. That's the good news, I guess.

Having said that, I guess the bad news is that I'm told by some of the stakeholders that if we concentrate on the Construction Lien Act instead of on Bill 69, it will not address all of the issues that they wanted raised. I've heard it so many times. Everybody agrees on the principle of prompt payment. Nobody has yet come up with the perfect solution to it, but everybody says the principle is sound. We're all in favour of the principle. I'm not convinced that tinkering with the Construction Lien Act will be able to address the concerns that many in the industry feel.

I expect the government, somewhere—I'm not on the government side, obviously, but there's a larger strategy at play that I'm not aware of—

Interjection.

Mr. Percy Hatfield: Thank you—but I am disappointed that Mr. Del Duca wasn't here to shepherd this along. I think, regardless of how we would have had debate on the amendments that might have been put forward, or whether we would have stuck with the original suggestions in the bill, it would have made for a more interesting discussion. I guess I have a problem with the process as much as anything else.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hatfield.

There being no further speakers, we'll go to the vote. I note that Ms. Scott and Ms. Fife are not voting members of this committee. They knew that already, but observers might wonder why they were voting or not voting in a particular way.

All those in favour of this motion, please raise your hands. All those opposed? Abstentions? It is carried.

The business of this committee is done for the day, and we adjourn.

The committee adjourned at 0939.

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ISSN 1180-4319

Legislative Assembly
of Ontario

Second Session, 40th Parliament

Assemblée législative
de l'Ontario

Deuxième session, 40e législature

Official Report of Debates (Hansard)

Wednesday 9 April 2014

Standing Committee on Regulations and Private Bills

Journal des débats (Hansard)

Mercredi 9 avril 2014

Comité permanent des règlements et des projets de loi d'intérêt privé

Chair: Peter Tabuns
Clerk: Valerie Quioc Lim

Président : Peter Tabuns
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Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario

Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 9 April 2014

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Mercredi 9 avril 2014

The committee met at 0900 in committee room 1.

The Chair (Mr. Peter Tabuns): The Standing Committee on Regulations and Private Bills will now come to order. We have a total of five private bills to consider.

TORONTO INTERNATIONAL FILM FESTIVAL INC. ACT (TAX RELIEF), 2014

Consideration of the following bill:

Bill Pr27, An Act respecting Toronto International Film Festival Inc.

The Chair (Mr. Peter Tabuns): As directed by the committee, we will consider Bill Pr27 as our first item of business: Pr27, An Act respecting Toronto International Film Festival Inc. Mr. Marchese is sponsoring this bill.

Mr. Marchese and the applicant are before us. Could you introduce yourselves for the purposes of Hansard?

Mr. Rosario Marchese: Rosario Marchese, MPP for Trinity–Spadina.

Mr. Doug Allison: Doug Allison, chief financial officer at the Toronto International Film Festival.

The Chair (Mr. Peter Tabuns): Mr. Marchese, any comments?

Mr. Rosario Marchese: I do, but I'm going to let Doug first of all make his remarks, and then see whether there's anything that's missing. I suspect not, but we'll see.

The Chair (Mr. Peter Tabuns): Mr. Allison, please.

Mr. Doug Allison: Thank you. You probably know us best from our flagship event, the Toronto International Film Festival that takes place each year in September, but TIFF has become much more than a film festival. We are a not-for-profit charitable organization that works year-round to transform the way people see the world through film. Our programming includes screenings, galleries, exhibitions, learning activities, discussions, workshops, a talent development program and a number of other activities to stimulate Ontario's film industry.

As you've seen from the bill, we are seeking a property tax exemption for our new facility, the TIFF Bell Lightbox. This is in line with the other cultural institutions in Ontario. If we operated a large live theatre venue or museum, we would be automatically exempt under Ontario's Assessment Act, but we are a hybrid institution, Ontario's first film centre, and therefore require this private bill to move forward.

TIFF Bell Lightbox is located in Toronto's entertainment district, at the corner of King and John. Since opening in 2010, the facility has developed into both a cultural attraction and a hub for the local film industry. Our facility includes two museum-grade galleries for exhibitions, a comprehensive film library and a collection of film-related artifacts. We have five movie theatres, learning spaces and more. We operate 365 days a year.

Our case for property tax exemption is anchored by four key points.

First is the precedent set in Ontario for large cultural institutions. Through various means, our peers in the cultural sector are exempt. This includes the Four Seasons Centre, the St. Lawrence Centre for the Arts, the National Ballet School, the Shaw Festival theatre, the Stratford Festival Theatre, Roy Thomson Hall and the Royal Conservatory's Telus Centre. TIFF is the only one of these major non-profit cultural organizations in Ontario whose facility does not yet receive an exemption from property tax.

Second, museums, heritage sites and cultural attractions are exempt from property tax in Ontario. This includes the Art Gallery of Hamilton, the Bata Shoe Museum, the Ontario Science Centre, THEMUSEUM in Kitchener and many more. We're a hybrid institution. We have galleries, archives, cinemas and educational spaces.

One thing I would like to note is that there are commercial properties existing in our building which TIFF does not own or operate. Our private bill only allows for the TIFF-owned portions of our facility to become exempt, not the on-site parking, the condominiums or the restaurant spaces, which will continue to pay property taxes totalling about $2 million per year.

Finally, TIFF is unique and important to Ontario. TIFF generates media coverage, draws in tourists, attracts investments and builds profile for Ontario. Our festival is one of the province's greatest success stories and leading newsmakers. TIFF is quickly building a year-round presence, and we have an annual impact of $189 million.

Last year, Toronto city council offered its unanimous support for our exemption, and we hope the province will follow suit. This exemption will help to ensure that TIFF can continue to operate as a healthy and impactful not-for-profit organization in Ontario. We do not expect special treatment; we are asking for equitable treatment.

I'd like to thank Rosario Marchese for sponsoring our bill, and everyone here today for your consideration. Thank you.

The Chair (Mr. Peter Tabuns): Thank you. Mr. Marchese, any supplementary comments?

Mr. Rosario Marchese: I believe Doug covered it all. TIFF puts Trinity–Spadina on the map, it puts Toronto on the map and it puts Ontario on the world map. It has my full support, and I'm assuming and hoping that everybody agrees.

The Chair (Mr. Peter Tabuns): Okay. Thank you very much.

Mr. Rosario Marchese: Thank you.

The Chair (Mr. Peter Tabuns): Are there any other persons present in the room who wish to address this bill? There being none, any comments from the government? Mr. Colle.

Mr. Mike Colle: Thank you for coming before us. I see where the city of Toronto passed a resolution in support of this; right?

Mr. Rosario Marchese: Yes. Unanimously, with one person absent.

Mr. Mike Colle: That's quite an achievement to do that. Some members must have been absent.

Mr. Rosario Marchese: One person. Just one person.

Mr. Mike Colle: Anyways, the question I have is this: TIFF is obviously now the world's number one film festival, even beating that film festival somewhere in France. But there's just one question I have. It seems to be very downtown-centric. I have the most iconic theatre in Toronto in my riding, the Eglinton theatre. It's a state-of-the-art art deco theatre that has helped build and create the love of movies going back to when it opened in 1928. Is it possible to have some showings outside of Trinity–Spadina? There is a Toronto north of Bloor. There are film lovers north of Bloor, but they can't always get downtown, with the congestion, the traffic and the parking. It costs you 50 bucks to park—

The Chair (Mr. Peter Tabuns): Mr. Colle, I hate to interrupt a member, but we have five bills to get through.

Mr. Mike Colle: I'm just asking them to look at maybe doing an event at the Eglinton theatre to broaden the outreach of TIFF to those of us who live north of Bloor, north of St. Clair.

The Chair (Mr. Peter Tabuns): Yours is the fifth bill, by the way, so you have an interest in things proceeding.

Mr. Doug Allison: It's a great question, a great point. I myself come from Peterborough, Ontario. I now live south of Bloor. So the cultural impact across the entire province and across the entire country is important to myself as well as TIFF.

We do run a film circuit that crosses the country and does go into a number of different venues across Ontario and the country. David might know the exact number, but it's over 100. I know that my parents take in the ones in the Peterborough area.

Most definitely, our reach through both the festival and this building is continuing to grow and continuing to have a greater impact. Certainly, the growth of film is something important for all Ontarians, all Canadians and, really, the world, in our eyes.

Mr. Mike Colle: So you mean you'll go maybe look at Eglinton?

Mr. Rosario Marchese: We're making an effort.

Mr. Doug Allison: We'll make an effort. I will talk to our film circuit group, and we'll see if we've got room for another venue.

Mr. Mike Colle: Okay.

The Chair (Mr. Peter Tabuns): Thank you. Questions from other members of the committee?

Mr. John Vanthof: I'd like to thank you for your presentation, and I'd like to say that we are fully in favour of this bill. Hopefully the government will see fit to pass it through the Legislature as quickly as possible.

Mr. Rosario Marchese: Thank you, members.

The Chair (Mr. Peter Tabuns): Thank you, gentlemen.

Are members of the committee ready to vote? Excellent.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall section 4 carry? Carried.

Shall section 5 carry? Carried.

Shall section 6 carry? Carried.

Shall section 7 carry? Carried.

Shall section 8 carry? Carried.

Shall section 9 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you.

434753 ONTARIO LTD. ACT, 2014

Consideration of the following bill:

Bill Pr22, An Act to revive 434753 Ontario Ltd.

The Chair (Mr. Peter Tabuns): Moving on swiftly, the next bill is Bill Pr22. We'll now proceed to this item, Bill Pr22, An Act to revive 434753 Ontario Ltd. Mr. Balkissoon is sponsoring this bill. Mr. Balkissoon is here. The applicants are coming forward. I would ask the applicants to introduce themselves for the purpose of Hansard.

Ms. Paula Davis: Good morning. I'm Paula Davis, and this is my dad, Evan Davis.

The Chair (Mr. Peter Tabuns): Good morning. Mr. Balkissoon, do you have any comments on this bill?

Mr. Bas Balkissoon: Thank you, Mr. Chair. We're just asking to revive this corporation that was accidentally dissolved—I should say, inadvertently dissolved—many years ago. The corporation itself continued to do business without being registered. It's a technical issue, and I hope the committee will support it.

The Chair (Mr. Peter Tabuns): All right. The applicants: Do you have any comments that you want to add? You don't have to.

Mr. Evan Davis: No.

The Chair (Mr. Peter Tabuns): Okay. Fair enough. Are there any interested parties in the room who want to speak to the bill? There being none, any comments from the government on this bill? All right. Questions from other members of the committee? Mr. Nicholls.

Mr. Rick Nicholls: Welcome, and good morning. A couple of things: Your member of provincial Parliament used the words "inadvertently dissolved." First of all, I guess what I'd like to know is the nature of the business. I guess you've still been doing business. Tell me a little bit about your business; what is it?

0910

Mr. Bas Balkissoon: Mr. Davis can explain it.

Mr. Rick Nicholls: Thank you.

Mr. Evan Davis: Technically, it's a taxi licence.

Mr. Rick Nicholls: I'm sorry?

Mr. Bas Balkissoon: City of Toronto taxi licence plate.

Mr. Rick Nicholls: Oh, sorry. Okay. All right.

Mr. Bas Balkissoon: The taxi has always been in business. It's still there, operating on the street, but the plate itself was registered under this company rather than Mr. Davis as a private individual.

As a result of another business that he had, the CRA documents have not been filed, so the company automatically went into insolvency, and that's how it ended up not being registered anymore. He did not realize or had forgotten that the plate was under a corporate name rather than his own name.

Mr. Rick Nicholls: I see. Okay, fine. Thanks for the clarification on that. Thanks, Mr. Davis.

The Chair (Mr. Peter Tabuns): Okay. Any other questions by members of the committee? There being none, are members ready to vote? Good.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you very much.

1360906 ONTARIO LIMITED ACT, 2014

Consideration of the following bill:

Bill Pr23, An Act to revive 1360906 Ontario Limited.

The Chair (Mr. Peter Tabuns): We will now proceed to item number 3 on the agenda, Bill Pr23, An Act to revive 1360906 Ontario Limited. Mr. Kwinter is sponsoring this bill.

Mr. Kwinter, you've come forward. The applicant has come forward. I'd ask the applicant to introduce himself for purposes of Hansard.

Mr. Samy Ouanounou: If I may, my name is Samy Ouanounou. I'm counsel for the applicant, Maurice Ohayon, who is a director officer of 1360906 Ontario Ltd.

The Chair (Mr. Peter Tabuns): Okay. Mr. Kwinter, do you have any comments?

Mr. Monte Kwinter: No. I support the applicant. He represents the principal, and he will describe the reason why they want to revive it.

The Chair (Mr. Peter Tabuns): Fair enough. Sir.

Mr. Samy Ouanounou: I'm not going to use the word "inadvertence" or "by mistake." It was under the advice of my client's accountant to dissolve this corporation. This corporation's only asset was a condominium apartment which my client used for himself and his family. Basically, that was the only activity. To avoid filing the annual returns and the expense, the accountant recommended that my client dissolve it, so my client agreed, signed the papers, and it was dissolved back in 2006. In 2012, my client decided to sell the condominium in Florida, and he found out that the corporation was dissolved. So we're trying to revive it for that sole purpose.

The Chair (Mr. Peter Tabuns): Okay. Are there any interested parties in the room who wish to speak to this bill? There being none, comments from the government? None? Questions from other members?

There being none, Mr. Kwinter, if we can have you back in your chair for votes.

I am assuming, members, that you're ready to vote. Great.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you very much, sir.

Mr. Samy Ouanounou: Thank you, Mr. Chair and members.

YMCA OF HAMILTON/BURLINGTON/BRANTFORD ACT (TAX RELIEF), 2014

Consideration of the following bill:

Bill Pr28, An Act respecting YMCA of Hamilton/Burlington/Brantford.

The Chair (Mr. Peter Tabuns): Okay. We'll now proceed to item 4 on the agenda, Bill Pr28, An Act respecting YMCA of Hamilton/Burlington/Brantford. Mr. Delaney is sponsoring this bill.

You're taking your seat, Mr. Delaney. The applicants are taking a seat. Would the applicants introduce themselves for the purposes of Hansard?

Mr. Jim Commerford: Jim Commerford, chief executive officer with the YMCA.

Mr. Brian Finnigan: Brian Finnigan, solicitor for the YMCA.

The Chair (Mr. Peter Tabuns): Thank you. Mr. Delaney, do you have any comments?

Mr. Bob Delaney: Chair, I do have two motions to move at this time.

I move that the first paragraph of the preamble to the bill be struck out and the following substituted—

The Chair (Mr. Peter Tabuns): Mr. Delaney, when we actually go to the bill, that's when it would be time for you to introduce those.

Mr. Bob Delaney: Okay.

The Chair (Mr. Peter Tabuns): If you want to tell us why you're going to change the bill, that's fine, but the actual motions have to wait for that vote.

Mr. Bob Delaney: Okay. Fair enough. At this point, Chair, I'm ready to proceed to the consideration of the bill.

The Chair (Mr. Peter Tabuns): Okay. Do the applicants have any information they want to impart to us?

Mr. Brian Finnigan: Yes, I would like to speak for a few minutes to give you some background to the bill, Mr. Chairman and members of the committee, and then I'd like to pass it on to Mr. Commerford to give you some explanation as to the particular development that we're engaged in right now that has given the impetus to move forward with this bill.

By way of background, the Brantford YMCA was incorporated in 1874, and it has enjoyed a municipal property tax exemption since 1903. The Hamilton YMCA was incorporated in 1886 and has enjoyed a municipal property tax exemption since 1911. So both of these organizations have enjoyed a property tax exemption for over 100 years.

The Hamilton YMCA eventually became the Hamilton/Burlington YMCA. In 2008, the Brantford YMCA merged with the Hamilton/Burlington YMCA, and the organization changed its name to the YMCA of Hamilton/Burlington/Brantford. This organization has operated a small YMCA in Brantford.

Currently, we are working with Wilfrid Laurier University to develop a joint-use facility in the city of Brantford. This is going to be a very significant development for downtown Brantford. It is supported by all levels of government, and Mr. Commerford will give you a description of this development in just a moment.

The purpose of this bill is to continue the property tax exemption for the YMCA of Hamilton/Burlington/Brantford in the city of Brantford. The city of Brantford has confirmed that it does not object to the passage of this bill; a copy of that confirmation is in the compendium. We advertised the bill—we actually advertised it twice because it took quite a while to go through the development process, the main reason being that other bills of this nature are usually for one-owner properties.

This is a joint development project between Wilfrid Laurier and the YMCA. Wilfrid Laurier already has a tax exemption; it doesn't need a tax exemption. Because it's proposed to be a joint-use facility, the YMCA needs to revive its tax exemption.

I'd like to ask Mr. Commerford to give you a description of the particular project that we're involved in right now.

Mr. Jim Commerford: As was mentioned by Mr. Finnigan, we've got a 150-year history of serving Brantford and surrounding communities. The reason we are here today is really as a result of our merger between these two registered charities, which has allowed us to more effectively and efficiently deliver programs and services across the region.

While we're best known for our health and fitness, we are also a large provider—in fact, the largest provider—of newcomer services, settlement services, in the region. Many newcomers to not only Hamilton and Brantford but surrounding areas come through the YMCA. We are also a provider of career counselling and development for young people and a very large provider of early learning programs in partnership with the provincial government as it relates to full-day learning. In fact, some of these programs have been extended not only through the schools and community settings but on to and in partnership with the Six Nations community on the Six Nations reserve.

With that, we have a partnership with Wilfrid Laurier University under way to construct the first university varsity athletic facility and YMCA in North America. It will serve not only Brantford but the surrounding communities. We have received funding of $16.7 million from the federal and provincial governments, as well as an additional $5.2 million from the city of Brantford for this project. Our other partners as we are designing and building this facility include the Six Nations community, Nipissing University and Mohawk College.

As mentioned earlier, we do have support from the city for the continuation of the tax-exempt status that we have enjoyed for the last 150 years.

I'd close by saying that one of the fundamental tenets of the YMCA is that no individual will be turned away due to an inability to pay a fee. So whether it's in our membership facilities or whether it's in our career counselling or early learning initiatives, the YMCA strives to ensure that the entire community is able to participate in our programs. Therefore, these programs are made available through the philanthropic support of our donors.

I'm here to answer any questions.

0920

The Chair (Mr. Peter Tabuns): Thank you very much.

Are there any other interested parties in the room who want to address the committee on this bill?

There being none, any government comment? None?

Mr. Brian Finnigan: Mr. Chairman, I'm just wondering if I can explain briefly the reasons for the motions.

The Chair (Mr. Peter Tabuns): For the amendments?

Mr. Brian Finnigan: For the amendments, yes, if you would like to hear that.

The Chair (Mr. Peter Tabuns): If members—were you going to ask that?

Mrs. Jane McKenna: I was just going to ask [*inaudible*] motions I bring forward myself, so that's good for me to hear.

Mr. Brian Finnigan: The purpose of the motions—there are two technical motions for this bill. The first one has to do with paragraph 1 of section 5, and results from the numbering of the 1911 act. That act, in section 1, provided for Hamilton's tax exemption. There was a subsequent act in 1940 that added subsection 1(2) to allow the Hamilton YMCA to acquire land outside Hamilton. However, the adding of subsection 1(2) did not change the numbering of the original act, because the bills were not consolidated like public acts. So what we had was a section 1 and a subsection 1(2), but there was never a subsection 1(1). This became apparent after review, and in consultation with legislative counsel, we determined that it would be more accurate to have the repealing section of the private bill refer to section 1 of the 1911 act as it read then, before amendment by the 1940 act, rather than subsection 1(1), as the draft was presented in first reading, because there never really was a subsection 1(1). It's just numbering.

Mrs. Jane McKenna: That's fine.

Mr. Brian Finnigan: The second motion asked for a change to the preamble. Wilfrid Laurier University is referred to in the bill because of the joint-use facility that may be partly owned by the university. The university is exempt from municipal taxation already, and this bill does not change that fact or affect its exemption. It is referred to in the bill merely because of the possibility of joint ownership of the facility. It is only the YMCA that will obtain a tax exemption as a result of the bill.

On reflection, counsel for the university concluded that it would be more appropriate to have the YMCA be the applicant as the only organization the exemption would pertain to and for the university to consent to the application, and the YMCA is content with this amendment. It's simply that we agree with counsel for the university that it more accurately reflects who the applicant for this bill is.

We have worked very closely with Laurier and with their counsel in this whole development, and they're completely on board with this; it's just a matter of how they wanted it expressed in the bill.

The Chair (Mr. Peter Tabuns): Questions satisfied?

Mrs. Jane McKenna: Just to welcome Mr. Commerford here today. He's the best darned CEO in Hamilton. We're going to put that on the record, because YMCAs touch all of our hearts. I want to say that, myself, my mother passed at a young age, and that was a staple for me on Drury Lane. So I just thank you for coming.

Mr. Jim Commerford: Thank you.

The Chair (Mr. Peter Tabuns): Are members ready to vote?

Mrs. Jane McKenna: Yes.

The Chair (Mr. Peter Tabuns): Mr. Delaney, if you could come back to your seat.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall section 4 carry? Carried.

Mr. Delaney, you have an amendment to section 5.

Mr. Bob Delaney: I move that paragraph 1 of section 5 of the bill be struck out and the following substituted:

"1. Section 1 of An Act respecting the Hamilton Young Men's Christian Association, being chapter 145 of the Statutes of Ontario, 1911, as it read before it was amended by section 1 of the Hamilton Y.M.C.A. Act, 1940."

The Chair (Mr. Peter Tabuns): Any discussion?

All those in favour? Opposed? Carried.

Shall section 5, as amended, carry? Carried.

Shall section 6 carry? Carried.

Shall section 7 carry? Carried.

You have an amendment on the preamble, Mr. Delaney.

Mr. Bob Delaney: I move that the first paragraph of the preamble to the bill be struck out and the following substituted:

"Preamble

"The board of directors of YMCA of Hamilton/Burlington/Brantford has applied for special legislation to permit YMCA of Hamilton/Burlington/Brantford to acquire and hold real property in the cities of Hamilton, Burlington and Brantford, to exempt from taxation for municipal and school purposes, other than local improvement rates, any land in the city of Brantford that is owned by YMCA of Hamilton/Burlington/Brantford or by Wilfrid Laurier University, or by both of them, and whose occupation and use meet specified conditions and to cancel the taxes for municipal and school purposes, other than local improvement rates, that were payable on the land for the years 2010 to 2013. The board of governors of Wilfrid Laurier University has consented to the application."

The Chair (Mr. Peter Tabuns): Any questions? There being none, all those in favour? Opposed? Carried.

Shall the preamble, as amended, carry? Carried.

Shall the title carry? Carried.

Shall the bill, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Agreed.

Thank you very much.

394557 ONTARIO LIMITED ACT, 2014

Consideration of the following bill:

Bill Pr29, An Act to revive 394557 Ontario Limited.

The Chair (Mr. Peter Tabuns): Now, Mr. Colle, the item you've been waiting for. We'll now proceed to the last item on the agenda, Bill Pr29, An Act to revive 394557 Ontario Limited.

Mr. Colle, you're sponsoring the bill?

Mr. Mike Colle: Yes, I'm sponsoring this bill. I would like basically to say that the applicant would like to revive a corporation in order to deal with a certain property that was held in the corporation's name at the time of dissolution, and the Ministry of Finance has no issues with this.

The Chair (Mr. Peter Tabuns): Okay. The applicant is before us. Would you introduce yourself for Hansard?

Mr. Vincent Muia: Certainly. Good morning. My name is Vincent Muia, and I am the applicant and the owner of 394557 Ontario Limited.

The Chair (Mr. Peter Tabuns): Mr. Colle, I assume you've made your comments.

Sir, do you want to make any comments on this bill?

Mr. Vincent Muia: To repeat what was said, it's necessary for me to revive the corporation in order that I can deal with certain assets that were held by the corporation at the time that it was dissolved.

The Chair (Mr. Peter Tabuns): Any interested parties in the room who want to speak to the bill? There being none, comments from the government? None. Any questions from committee members? No. Are members ready to vote? Okay.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you.

Mr. Vincent Muia: Thank you.

The Chair (Mr. Peter Tabuns): That's it. Our business is done for the day. We stand adjourned.

The committee adjourned at 0927.

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ISSN 1180-4319

Legislative Assembly of Ontario

Second Session, 40th Parliament

Assemblée législative de l'Ontario

Deuxième session, 40e législature

Official Report of Debates (Hansard)

Wednesday 16 April 2014

Journal des débats (Hansard)

Mercredi 16 avril 2014

Standing Committee on Regulations and Private Bills

Comité permanent des règlements et des projets de loi d'intérêt privé

Chair: Peter Tabuns
Clerk: Valerie Quioc Lim

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Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario

Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 16 April 2014

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Mercredi 16 avril 2014

The committee met at 0900 in committee room 1.

COMMITTEE BUSINESS

The Chair (Mr. Peter Tabuns): The Standing Committee on Regulations and Private Bills will now come to order. Our first item of business is the appointment of the subcommittee on committee business. Mr. Fraser?

Mr. John Fraser: Mr. Chair, I have a motion to put before the committee.

The Chair (Mr. Peter Tabuns): Please.

Mr. John Fraser: I move that the Clerk, in consultation with the Chair, be authorized to arrange the following with regard to Bill 177, MPP Salary Freeze Act, 2014:

(1) One day of public hearings on the next regularly scheduled meeting of the committee followed by one day of clause-by-clause consideration at the next regularly scheduled meeting;

(2) Advertisement on the Ontario Parliamentary Channel, the committee's website and the Canadian NewsWire;

(3) Witnesses are scheduled on a first-come, first-served basis;

(4) Each witness will receive up to five minutes for their presentation followed by nine minutes for questions from the committee members;

(5) The deadline for written submissions is 3 p.m. on the day of public hearings;

(6) The research office will provide a summary of the presentations by 5 p.m. on Friday of the same week following public hearings;

(7) The deadline for filing amendments with the Clerk of the committee be at 12 noon on the day preceding clause-by-clause consideration of the bill.

The Chair (Mr. Peter Tabuns): Members of the committee, we have an agenda. It's up to you whether you want to proceed on this now or hold it down until later in the meeting. Ms. McKenna?

Mrs. Jane McKenna: Yes, can we hold it down?

The Chair (Mr. Peter Tabuns): Okay. Is that the consensus? Okay.

So I'll go back to the agenda. I understand we have a motion. Mr. Vanthof?

Mr. John Vanthof: I move that a subcommittee on committee business be appointed to meet from time to time at the call of the Chair or at the request of any member thereof, to consider and report to the committee on the business of the committee;

That the presence of all members of the subcommittee is necessary to constitute a meeting; and

That the subcommittee be composed of the following members: the Chair as Chair, Mr. Fraser, Mrs. McKenna, and Ms. Fife; and

That substitution be permitted on the subcommittee.

The Chair (Mr. Peter Tabuns): Is there any discussion on this? There being none, shall the motion carry? Carried.

DRAFT REPORT ON REGULATIONS

The Chair (Mr. Peter Tabuns): Now we move on to the draft report on regulations made in 2012. Research officer Andrew McNaught will introduce the report and we will follow through with him. Mr. McNaught?

Mr. Andrew McNaught: Good morning. I'm Andrew McNaught of the legislative research service. Today I'm here as counsel to the committee. As the Chair indicated, we're here to consider a draft report on regulations made in 2012. You should have a copy of that report in front of you.

As I suspect not all of you are familiar with the regulations review process, I'm just going to begin with a quick overview of the committee's regulations mandate. That mandate is set out in section 33 of the Legislation Act and in the standing orders. The act and the standing orders provide that the committee is to examine the regulations made each year under Ontario statutes. In conducting this review, the committee is to ensure that regulations were made in accordance with the nine guidelines set out in the standing orders. You should have in front of you a copy of the standing orders.

These guidelines reflect legal principles that are recognized in most common-law jurisdictions. Over the years, the two guidelines that have been most frequently cited in committee reports are guidelines (ii) and (iii). The effect of guideline (ii) is that there should be clear authority in the enabling statute to make a regulation. Guideline (iii) provides that regulations should be expressed in clear and precise language.

The committee's mandate specifically excludes any consideration by the committee of the merits of the policy or the objectives of a particular regulation. In other

words, the committee is to consider only the narrow legal principles that are set out in the committee's guidelines.

I just forewarn you that the draft report deals with specific sections of regulations and that the discussion in the report concerns issues that are somewhat technical and legalistic. They do not concern the merits or policy underlying the regulation.

Finally, the Legislation Act requires the committee to report from time to time its observations, opinions and recommendations.

I'll just quickly run through the chronology of events in the regulations review process. As I'm sure you know, regulations are made by cabinet, a minister, or other body authorized in a statute to make regulations. The regulations are drafted by ministry legal branches in consultation with the Office of Legislative Counsel at the Ministry of the Attorney General. The regulations are then filed with the registrar of regulations and become law on the date they were filed or on another date specified in the regulation. The regulations are then published on the government's e-Laws website and in the Ontario Gazette.

The lawyers/research officers at the Legislative Research Service then read the published regulations, to assess compliance with the nine guidelines set out in the standing orders. We flag potential violations of the guidelines and write letters to the ministry legal branches responsible for the regulations in question. We then consider the ministry responses, and where we believe a regulation continues to be problematic, we include it in a draft report. Once the draft report is ready, it goes to the committee, and that's where we are today.

I just have to begin by making a disclaimer. You'll see from the cover page that my colleague Tamara Hauerstock conducted the regulations review and wrote this report. She is unable to be here today, so I'm filling in on short notice. I'll do my best to answer any questions you might have.

Beginning on page 1, we have our standard introduction, explaining the role of the committee and what the report covers. Next is a section on statistics for the years 1993 to 2012, and that sets out basic statistics on regulations filed in that period. You'll see that over that 20-year period, the average number of regulations filed each year was 582. And 448 regulations were filed in 2012, so we're below the 20-year average for the year covered by this report.

Pages 3 and 4 then set out some statistics for regulations made in 2012.

On page 5, we have "Regulations Reported." This section is the substantive part of the report. It discusses regulations we have identified as possible violations of the committee guidelines. As noted in the opening paragraph, we reviewed the 448 regulations made in 2012 and wrote letters to 11 ministries raising questions about 24 regulations.

After considering the ministries' responses, we've decided to report nine regulations under guidelines (ii) and (iii), which are the two guidelines I mentioned earlier. Regulations are reported under the ministry responsible for them.

In the middle of page 5, under the heading "Ministry of Agriculture and Food," we discuss three regulations for which this ministry is responsible.

The first is a regulation made under the Grains Act. This is perhaps a relatively unknown statute, but I'll just note that it generally requires all grain dealers and elevator operators in the province to be licensed, and requires that they pay grain producers and owners within specified timelines.

In 2012, the general regulation under that act was amended to provide for deferred payment contracts between grain producers and grain elevator operators and dealers. My understanding is that these amendments were made to allow grain producers to take advantage of certain income tax rules. Don't ask me to explain what those rules are, but that's the rationale.

0910

The 2012 amendment also provided that where the owner of grain and the grain elevator operator enter into a deferred payment contract for the storage of grain, the owner will be deemed to have received compensation and the ownership of the grain will be deemed to have been transferred at the time the two parties entered into the deferred payment contract. We were unable to find explicit authority in the act to make a regulation that deems compensation to have been made in these circumstances.

As we set out on page 6, the ministry has pointed to three regulation-making powers in the act as possible authority for the deeming provision. However, we're taking a strict position, I guess, in saying that while there might be a good policy underlying the deeming provision, there needs to be more explicit authority in the act.

Our recommendation at the bottom of page 6 is that the ministry take steps to bring the regulation into compliance with the regulation-making powers in the act.

Do you want any discussion on that point, or can we move on to the next—

The Chair (Mr. Peter Tabuns): Is there any discussion on this? Is the recommendation that's set out here acceptable to the committee? Do I need to be any more formal than that?

All those in favour of this recommendation? All those opposed? Carried.

Mr. Andrew McNaught: The next regulation reported is at the top of page 7, and this is under the Animal Health Act. The issue we're raising here is very technical. I'll try to be as brief as possible.

The purpose of the Animal Health Act is to provide for the protection of animal health and to establish measures to assist in the prevention of hazards associated with animals that may affect animal health or human health. One of the protective measures in the act is that the minister and/or the Chief Veterinarian for Ontario may order the destruction of animals where they pose a public health hazard.

In addition, the minister may authorize the payment of compensation to the owners of animals that have been destroyed, and as well, the minister may refuse or reduce compensation in the circumstances mentioned in the act and in additional circumstances that may be prescribed in the regulations.

The regulation at issue here sets out eight additional circumstances in which the minister may refuse or reduce compensation to animal owners. However, in our view, the regulation cites the wrong section of the act as the authority to make the regulation. We believe another regulation-making power should have been identified. You can read the discussion, if you like, on page 7, but in a nutshell, the ministry appears to agree with us, as it has said that it will consider recommending amendments clarifying the statutory authority to make the provision in question when the regulation is next brought forward for amendments.

Nonetheless, we're still recommending at the bottom of page 7 that the ministry amend the regulation so that it refers to the proper regulation-making power in the act.

The Chair (Mr. Peter Tabuns): Are there any questions or discussion? Mr. Walker.

Mr. Bill Walker: Just a point of clarification, Mr. McNaught: When that goes to the ministry, if they choose to disregard what you're saying, do we just go through another loop with the same old thing again?

Mr. Andrew McNaught: No. The committee's mandate is to make recommendations. At the end of the day, the ministry can choose to take the advice or not.

Mr. Bill Walker: Okay.

Mr. Andrew McNaught: Your colleague Mr. Hillier wanted us to have more authority than that, but that's for another day, I guess.

Mr. Bill Walker: I would probably concur with my colleague. I think we go in circles an awful lot.

Mrs. Laura Albanese: Sorry—so it's different from, let's say, the public accounts committee, where the Auditor General will go back after two years and basically see if the recommendations were adopted by the ministry?

Mr. Andrew McNaught: In fact, at the end of the report, we do have an update on previous recommendations and actions that have or have not been taken in response to our recommendations. If the committee wishes, we can continue to do that. The committee's mandate provides that all regulations, regardless of when they were made, stand permanently referred to the committee. The committee is free to go back 10 years and look at a recommendation, if you like. That's a decision the committee has to make.

The Chair (Mr. Peter Tabuns): Further questions? Is the recommendation acceptable? Carried? Carried.

Mr. McNaught.

Mr. Andrew McNaught: On page 8 is a regulation under the Nutrient Management Act, 2002. This is the third regulation we're reporting under the Ministry of Agriculture and Food. The issue here concerns the Legislation Act, 2006. This is the act that sets out the rules governing the publication, citation and interpretation of Ontario statutes and regulations. Section 62 of the Legislation Act provides that a regulation may incorporate an existing document by reference. For example, a regulation might refer to a map published by the Ministry of Natural Resources or a technical document relating to drinking water quality. One of the rules of incorporation by reference is that both the current document and earlier versions of the document that were incorporated by reference must remain readily available to the public.

In 2012, the general regulation under the act was amended to update certain documents that were incorporated by reference. For example, the regulation as amended now refers to the nutrient management protocol for 2012 instead of the nutrient management protocol for 2009. However, our search of the ministry's website did not locate all the versions of the reference documents, as required by the Legislation Act.

In response to our inquiry, the ministry said that the reference documents are, in fact, now posted on the ministry's website. So in this section, we're simply reporting that the ministry has addressed our concerns. Accordingly, we're not making a specific recommendation here.

The Chair (Mr. Peter Tabuns): Mr. Walker.

Mr. Bill Walker: Not to be pedantic, but just for clarification again: When you say that, Mr. McNaught, you have gone and made sure that they are there? Or you've just accepted their response that they have done that?

Mr. Andrew McNaught: I personally haven't done that. I'm sure—

Mr. Bill Walker: But you're trusting your colleagues have done that?

Mr. Andrew McNaught: My colleague did do that, yes.

Mr. Bill Walker: Thank you very much.

The Chair (Mr. Peter Tabuns): There is no recommendation here. We'll move on to the next section.

Mr. Andrew McNaught: In the middle of page 8, under the Ministry of Infrastructure, is a regulation made under the Places to Grow Act, 2005. That act provides for the identification and designation of growth plan areas and the development of strategic growth plans for those communities. At issue here are regulations that establish transition rules for the period following the coming into force of the act.

One of the prescribed transition rules provides that applications relating to the Growth Plan for the Greater Golden Horseshoe that had been initiated prior to the coming into force of the act would be continued after the act took effect. In prescribing these rules, the regulations made several references to policies. However, the policies were identified by number only, and there was no description of what the policies actually were. We raised this as a possible violation of the committee's third guideline, which requires that regulations be written in clear language.

In response to our inquiry, the ministry explained that the policies referenced in the regulations are policies

under the Growth Plan for the Greater Golden Horseshoe. In fact, the ministry said that the regulations have subsequently been amended to more clearly identify these policies. So again, the ministry has addressed our concerns, and the committee will not be making a specific recommendation here.

The Chair (Mr. Peter Tabuns): Unless there are questions, we'll go on to the next section. Mr. Nicholls.

Mr. Rick Nicholls: Mr. McNaught, I was just curious. I get a little edgy, I guess, when I see "Ministry of Energy," and then we talk about growth plans. What I'm wondering—

Mr. Andrew McNaught: Sorry, it's the Ministry of Infrastructure.

Mr. Rick Nicholls: Ministry of Energy and Infrastructure?

The Chair (Mr. Peter Tabuns): At one point, they were—

Mr. Rick Nicholls: Oh, I'm sorry. Okay.

Mr. Andrew McNaught: I'm afraid I'm not aware of the history of that title.

Mr. Rick Nicholls: You were correct. You did say "Ministry of Infrastructure," and I just thought it was an oversight.

Mr. Andrew McNaught: No.

Mr. Rick Nicholls: Okay, so it's not that. Okay.

When you talk about a growth plan, can you describe for me what you mean by a growth plan?

0920

Mr. Andrew McNaught: This is land use planning, so it sets certain rules for development. Beyond that, I'm not an expert on that.

Mr. Rick Nicholls: That's fair.

Mr. Andrew McNaught: But it controls land use planning in the designated area.

Mr. Rick Nicholls: When I saw the word "energy" tied in with that, I got a little concerned. I was thinking of windmills and turbines and growth plans for those.

Mr. Andrew McNaught: I think that's another act.

Mr. Rick Nicholls: Okay. Thank you.

The Chair (Mr. Peter Tabuns): Questions satisfied? We've gone through that.

Next, the Ministry of Government Services.

Mr. Andrew McNaught: Right. On page 9, under "Ministry of Government Services," is a regulation under the Municipal Freedom of Information and Protection of Privacy Act, otherwise known as MFIPPA. This act, as you probably know, creates a right of access to general information held by municipal institutions and the right of access to records containing personal information held by municipal institutions.

Under the act, a request for access to information must be made in writing. However, the regulations dealing with access-to-information requests require that an access request must be in writing, as required under the act, but, in addition, the regulations require that an access request must state that it is being made under MFIPPA.

We were unable to find authority in the act to make regulations imposing this additional requirement. The ministry's explanation is that the requirement to specify that a request has been made under the act is necessary in order for the municipality to distinguish between formal FOI requests and informal requests. The significance here is that certain provisions of the act apply to formal requests but do not apply to informal requests.

The ministry argues that cabinet's authority to prescribe forms for the purpose of the act is sufficient authority to require that access-to-information requests identify the act under which the request is being made. Our position is that the authority to prescribe forms is not broad enough to impose this additional requirement. Rather, there should be explicit authority in the act to do this.

So our recommendation at the bottom of page 10 is that the regulation be amended to remove the requirement that an access-to-information request must state that it is being made under the act. That's the recommendation.

The Chair (Mr. Peter Tabuns): And "the requirement that a request for correction of personal information be in writing...."

Mr. Andrew McNaught: Yes.

The Chair (Mr. Peter Tabuns): Are there any questions or discussion on this recommendation? There being none, shall it carry? Carried.

Mr. McNaught?

Mr. Andrew McNaught: On page 11, under "Ministry of Labour," there's a regulation under the Occupational Health and Safety Act. The regulation at issue here requires employers to take measures to limit the exposure of workers to specified hazardous biological or chemical agents in accordance with criteria set out in a table in the regulation, or, if the hazardous agent is not listed in the table, in accordance with criteria set out in a document published by the American Conference of Governmental Industrial Hygienists. That regulation is incorporated into the regulation by reference.

So as with the regulation discussed earlier under the Nutrient Management Act, the question here is whether the regulation meets the requirements of the Legislation Act with respect to incorporation of documents by reference. Again, the Legislation Act requires that when a regulation incorporates a document by reference, the minister responsible for the regulation must ensure that the documents are readily available to the public, including all previous versions of it.

We were unable to locate these documents on the Internet. The ministry is arguing that it meets the public availability requirement by posting tables on its website containing some but not all information from the incorporated documents. We pointed out that these tables posted by the ministry come with a disclaimer that the public should not rely solely on the tables. So our position is that the Legislation Act requires that the full version of documents incorporated by reference, not summaries of those documents, must be publicly available. That's our recommendation at the bottom of page 11.

The Chair (Mr. Peter Tabuns): Are there any questions for Mr. McNaught? Any comments on this? Shall the recommendation be carried? Carried.

Mr. Andrew McNaught: At the top of page 12, under "Ministry of Natural Resources," is a regulation under the Endangered Species Act, 2007. Just by way of background, the Endangered Species Act prohibits the killing or harming of threatened or endangered species, and it also protects the habitats of threatened or endangered species. The regulation at issue here contains descriptions of protected habitat, and one of these descriptions refers to a document published by the Ministry of Natural Resources. Specifically, it refers to the document as it "may be amended from time to time." Again, we're questioning whether the regulation meets the requirements of the Legislation Act regarding incorporation of documents by reference. In this case, the rule under the act provides that a regulation must refer to a document as it read at the time the regulation was made. In other words, the regulation should not refer to a document that may change over time. This is known as rolling incorporation. We question whether a reference to a document as it "may be amended from time to time" violates the Legislation Act's prohibition against rolling incorporation.

The ministry points out that the rules in the Legislation Act apply unless a contrary intention is indicated in the enabling statute. In this case, they're saying that, when looked at as a whole, the Endangered Species Act indicates an intention to allow rolling incorporation of documents. We're taking the position that, if the Legislature had intended to allow rolling incorporation, it would have stated this explicitly in the act. As it turns out, the ministry, last December, amended the regulation by revoking the reference to documents that could be amended from time to time. So, as the ministry has addressed our concern, we're not making a recommendation here.

The Chair (Mr. Peter Tabuns): Are there any questions before we move on? There being none, Mr. McNaught.

Mr. Andrew McNaught: On page 13, under "Ministry of Northern Development and Mines," we're raising two issues in regard to a regulation under the Mining Act. The first issue concerns exploration permits issued under the act. Subsection 78.2(3) provides that a person carrying out prescribed early-stage mineral exploration activities may not carry out any such activity unless the person has obtained an exploration permit from the ministry.

The regulation prescribes the early-stage exploration activities that require an exploration permit, but then goes on to give directors of exploration plans and permits at the ministry discretion to require exploration permits in certain additional circumstances. We were unable to find authority in the act to make regulations granting ministry directors discretionary power to require exploration permits. Our recommendation, in the middle of page 14, is in effect that the regulation be amended to remove the discretionary authority given to ministry directors.

The Chair (Mr. Peter Tabuns): Are there any questions or comments on the recommendation before you? Shall it be carried? Okay, I see nodding of heads, I hear at least one "carried." Good, thank you.

Mr. NcNaught.

Mr. Andrew McNaught: The second issue we raise in connection with this regulation, in the middle of page 14, also concerns exploration permits, but in this case concerns the terms and conditions that may be attached to permits. The regulation-making authority in the act authorizes regulations prescribing standard terms and conditions for exploration permits. The regulation made under this authority prescribes those terms and conditions, but then goes on to give ministry directors discretion to waive any of these terms or conditions. Again, we were unable to find authority in the act for making a regulation permitting directors to waive terms and conditions on exploration permits.

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The ministry argues that the list of terms and conditions in the regulation is expressly made subject to a director's discretion to waive those terms and conditions. In other words, they're saying that the director's authority to waive terms and conditions is itself a term or condition of an exploration permit.

Our position is that standard terms and conditions should not become standard only if a ministry director chooses not to waive them. The authority to do that should be stated explicitly in the act, so our recommendation on page 15 is that the regulation be amended to remove the discretionary authority given to ministry directors.

The Chair (Mr. Peter Tabuns): Thank you. Any questions? Mr. Nicholls?

Mr. Rick Nicholls: Just a quick question, Mr. McNaught: What you're suggesting here is that discretionary decisions are taken away from the director—

Mr. Andrew McNaught: Are given to the director.

Mr. Rick Nicholls: Are given to the director?

Mr. Andrew McNaught: Yes.

Mr. Rick Nicholls: In the first recommendation, which we talked about earlier, was it taken away from the director?

Mr. Andrew McNaught: No, it was also given.

Mr. Rick Nicholls: Also given, then? Okay. All right.

Mr. Andrew McNaught: We're saying that you have to have authority in the act to give them that discretionary power.

Mr. Rick Nicholls: Okay. Thank you.

The Chair (Mr. Peter Tabuns): Any further questions or comments? Shall this recommendation carry? Carried.

Mr. Andrew McNaught: All right. So, in the middle of page 15, under "Ministry of Training, Colleges and Universities," we're raising two issues in connection with a regulation under the Ontario College of Trades and Apprenticeship Act, 2009.

The first issue concerns the role of the Ontario College of Trades in determining the apprentice-to-journeyperson ratios for skilled trades. For this purpose, the act authorizes the board of governors at the college to make regulations prescribing the number of apprentices who may be

sponsored or employed by a person in a trade in relation to the number of journeypersons employed.

However, the board has made a regulation that deems journeyperson candidates, which is a class of workers somewhere in between apprentices and certified journeypersons, to be apprentices for the purpose of the apprentice-to-journeyperson ratios. Again, we could find no authority in the act to make regulations deeming journeyperson candidates, who are individuals not mentioned in the act, to be apprentices for the purposes of the apprentice-to-journeyperson ratios.

Now, the ministry points out that, if journeyperson candidates are not deemed to be apprentices, then these individuals would be able to practise compulsory trades outside of the ratio requirements. In the report, we're acknowledging this policy issue; however, we're acknowledging that the act contemplates only two classes of individuals: apprentices and journeypersons.

So we're recommending that the ministry take steps to ensure that there is authority in the act to make the regulation. I guess, in effect, we're arguing that the act needs to be amended to allow for designating journeyperson candidates. That's the recommendation on page 16.

The Chair (Mr. Peter Tabuns): Any questions or comments on this recommendation? Shall this recommendation carry? Carried. Thank you.

Mr. McNaught?

Mr. Andrew McNaught: The last issue, you'll be glad to hear, starts at the bottom of page 16. It concerns a requirement under the act that workers must have a Certificate of Qualification to be employed in certain skilled trades. For this purpose, the act gives the board of governors of the Ontario College of Trades authority to make regulations prescribing standards, qualifications and other requirements that must be met in order to obtain a Certificate of Qualification.

Now, the regulation made under this authority provides that applicants for a Certificate of Qualification must meet prescribed standards and qualifications. However, the regulation also provides that an applicant does not have to meet these requirements if the applicant can provide "proof that is satisfactory to the registrar" of the college that the applicant has qualifications and experience that are equivalent to the prescribed requirements.

It was not clear to us whether the phrase "proof that is satisfactory to the registrar" means that the registrar is to decide that the qualifications and experience presented by the applicant are equivalent to the prescribed requirements, or whether this means that the registrar is to decide if the applicant has presented sufficient evidence that he or she has met the equivalent qualifications and experience.

We raise this as a possible violation of the committee's third guideline which, again, requires that regulations be expressed in clear language.

At the top of page 17, we indicate that the ministry is, in fact, somewhat sympathetic to this concern. They've said that they will be approaching the college about making a clarifying amendment.

The last recommendation at the bottom of page 17 is that the regulation be amended—in effect, that's my reading of the recommendation anyway—to clarify exactly what the role of the registrar is with respect to assessing equivalency of qualifications and experience.

The Chair (Mr. Peter Tabuns): Thank you. Are there any questions or comments on this recommendation? There being none, shall it be carried? Carried.

Shall the draft report, including recommendations, carry? Carried.

Who shall sign off on the final copy of the draft? The Chair or the subcommittee?

Interjection: Chair.

The Chair (Mr. Peter Tabuns): Chair. Shall the report be printed? It shall.

Shall I present the report to the House and move the adoption of its recommendations? Agreed. We're done with that item of business.

Mr. Fraser, we go back to your motion.

Mr. John Fraser: That's great. I think the Clerk has a copy of the motion. Does everybody want a copy of that? Has everybody got one?

The Chair (Mr. Peter Tabuns): I think everyone does have a copy.

Mr. John Fraser: Everybody has a copy?

The Chair (Mr. Peter Tabuns): And you've read it out loud, so it's in Hansard.

Mr. John Fraser: I think it's pretty straightforward. We passed second reading on Monday this week. I think we should move forward and get this thing done. It's fairly simple and straightforward. I don't know if anybody else has any other comments.

The Chair (Mr. Peter Tabuns): Can I just have clarity? When you talk about the one day of public hearings followed by a day of clause-by-clause, you're talking about separate days?

Mr. John Fraser: Yes.

The Chair (Mr. Peter Tabuns): All right.

Mrs. Jane McKenna: That's what I was just going to ask, myself, if it was separate days. Okay. That's fine. But I would also like to say that we're looking forward to bringing this bill into committee so that we can look at ways to incorporate aspects of a broader public sector wage freeze into the bill in an attempt to further reduce the cost of government to the taxpayers.

The Chair (Mr. Peter Tabuns): Any other comments? There being none, all those in favour of the adoption of this motion? Opposed? Carried. Thank you.

The committee stands adjourned until our next regularly scheduled meeting.

The committee adjourned at 0938.

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